

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOHN FRANCIS ARPINO,  
Petitioner,  
vs.  
THE SECOND JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
WASHOE, AND THE HONORABLE  
BARRY BRESLOW, DISTRICT JUDGE,  
Respondents.

No. 77631-COA

FILED


MAR 14 2019

ELIZABETH M. FROWN  
CLERK OF DISTRICT COURT  
BY  DEPUTY CLERK

ORDER DENYING PETITION

This original petition for a writ of mandamus seeks an order directing the district court to reverse and vacate an order denying John Francis Arpino's request to file a petition for a writ of habeas corpus. We conclude Arpino has failed to demonstrate the district court manifestly abused its discretion by declining to file Arpino's petition for a writ of habeas corpus. *See* NRS 34.160. Accordingly, we

ORDER the petition DENIED.<sup>1</sup>

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Bulla

<sup>1</sup>The clerk of this court shall modify the caption in this matter to reflect the caption on this order.

cc: Hon. Barry Breslow, District Judge  
John Francis Arpino  
Washoe County District Attorney  
Washoe District Court Clerk

Docket Number - 75789-COA



75789-COA

Document Year - 2019



2019

Document Number - 11387



11387

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

HECTOR GUZMAN-SALGADO,  
Appellant,  
vs.  
BRIAN WILLIAMS, WARDEN,  
Respondent.

No. 75789-COA

**FILED**

MAR 14 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Hector Guzman-Salgado appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on October 17, 2017.<sup>1</sup> Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.

Guzman-Salgado contends the district court erred by denying his petition challenging the computation of time served. Guzman-Salgado claimed he was entitled to the application of statutory credits to his minimum sentence pursuant to NRS 209.4465(7)(b) and the failure to credit him violated the Ex Post Facto Clause. The district court found Guzman-Salgado was sentenced for a category B felony for a crime he committed after 2007 and was thus not entitled to the application of credits to his minimum sentence. *See* NRS 209.4465(8)(d). Although copies of Guzman-Salgado's charging document and judgment of conviction are not included in the record on appeal to support the district court's findings, we nevertheless affirm.


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<sup>1</sup>This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).

Whether Guzman-Salgado is entitled to the application of credits to his minimum sentence depends on when he committed his crime. *See generally Williams v. State*, 133 Nev. \_\_\_, 402 P.3d 1260 (2017) (holding credits should be applied to certain minimum sentences for crimes committed between the 1997 enactment and 2007 amendment of NRS 209.4465). Similarly, whether the application of a statute violates the Ex Post Facto Clause depends on when the crime was committed in relation to when the statute was amended or enacted. *See Weaver v. Graham*, 450 U.S. 24, 29 (1981).

Guzman-Salgado claimed to have been convicted of a category B felony, *see* NRS 484B.550(3), but he did not state when he committed it. He thus failed to support his claims with necessary specific factual allegations. *Cf. Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984) (holding a petitioner is not entitled to an evidentiary hearing where his claims are unsupported by specific factual allegations that, if true, would have entitled him to relief). We therefore conclude the district court did not err by denying Guzman-Salgado's petition. *See Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Linda Marie Bell, Chief Judge  
Hector Guzman-Salgado  
Attorney General/Carson City  
Eighth District Court Clerk