

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DARYON DEMONTE ROBINSON,
Appellant,
vs.
JAMES DZURENDA, DIRECTOR
NDOC; AND ISIDRO BACA, WARDEN,
Respondents.

No. 76652-COA

FILED

MAR 26 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Daryon Demonte Robinson appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on June 8, 2018.¹ First Judicial District Court, Carson City; James Todd Russell, Judge.

Robinson contends the district court erred by denying his petition. Robinson claimed he is entitled to the application of statutory credits to his minimum sentence pursuant to NRS 209.4465(7)(b). The district court found Robinson's controlling sentence was the result of a conviction for attempted first-degree kidnapping, a category B felony, committed after the effective date of NRS 209.4465(8)(d), which precludes the application of credits to minimum terms of sentences for such felonies. These findings are supported by the record. *See* NRS 193.330(1)(a)(1); NRS 200.310(1). The district court also found Robinson's other sentence was the result of a felony conviction for a crime of violence: battery resulting in substantial bodily harm constituting domestic violence. This finding is also


¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

supported by the record, *see* NRS 200.485(2)(b), and NRS 209.4465(8)(a) precludes the application of credits to minimum terms of sentences for such felonies. We therefore conclude the district court did not err by denying this claim.

Robinson also suggested the application of NRS 209.4465(8) violates the Ex Post Facto Clause. Robinson's claim lacked merit. A requirement for an Ex Post Facto Clause violation is that the statute applies to events occurring before it was enacted. *Weaver v. Graham*, 450 U.S. 24, 29 (1981). Because NRS 209.4465(8) was enacted before Robinson committed his crime, its application does not violate the Ex Post Facto Clause. Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. James Todd Russell, District Judge
Daryon Demonte Robinson
Attorney General/Carson City
Carson City Clerk

²Robinson also challenges the validity of his guilty plea and contends that NRS 209.4465(8) violates the Equal Protection Clause. Robinson did not raise these claims below, and we thus need not consider them on appeal in the first instance. *See McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999). We nevertheless note that this court recently rejected a similar equal-protection argument. *See Vickers v. Dzurenda*, 134 Nev. ___, ___, 433 P.3d 306, 310 (Ct. App. 2018).