

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VINCENT JAMES REED, A/K/A
VINCENT ARTHUR MOLINSKI,
Appellant,
vs.
THE STATE OF NEVADA; AND BRIAN
WILLIAMS, SR., WARDEN,
Respondents.

No. 75579-COA

FILED

APR 16 2019

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

ORDER OF AFFIRMANCE

Vincent James Reed appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on October 13, 2017.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.

In his petition, Reed claimed the Nevada Department of Corrections was not applying the statutory credits he earned to his minimum sentences as required by NRS 209.4465(7).² The district court

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

²We conclude the district court properly construed Reed's petition for a writ of mandamus as a postconviction petition for a writ of habeas corpus.

denied Reed's petition in part after finding he was not entitled to have good time credits applied to his parole eligibility date because he was serving a sentence pursuant to a statute that specified a minimum parole eligibility term. The district court granted Reed's petition in part after finding he had been convicted of category B felonies he committed in 2007 before the effective date of the amendments to NRS 209.4465.

On appeal, Reed claims the district court erred by concluding the exclusion in NRS 209.4465(7)(b) applies to offenders who were sentenced pursuant to NRS 207.010(1)(b). NRS 207.010(1)(b) is a sentencing statute that specifies a minimum term must be served before an offender becomes eligible for parole. Therefore, the district court correctly determined Reed was not entitled to have his statutory credits applied toward his minimum term. *See* NRS 209.4465(7)(b) (1997); *Williams v. State, Dep't of Corr.*, 133 Nev. ___, ___, 402 P.3d 1260, 1262 (2017).

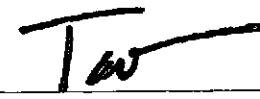
Reed also claims the district court erred by not retroactively applying his statutory credits to sentences he already expired. This claim lacks merit "because the application of credits under NRS 209.4465(7)(b) only serves to make an offender eligible for parole earlier, no relief can be


See NRS 34.724(2)(c) ("a petition is the only remedy available to an incarcerated person to challenge the computation of time served").

afforded where the offender has already expired the sentence." *Id.* at ___
n.7, 402 P.3d at 1265 n.7. Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Linda Marie Bell, Chief Judge
Vincent James Reed
Attorney General/Las Vegas
Eighth District Court Clerk

³To the extent Reed alleged errors in his judgment of conviction, the district court correctly found Reed needs to challenge those errors in a separate postconviction petition for a writ of habeas corpus. *See* NRS 34.738(3). Further, to the extent Reed claims he should be allowed to withdraw his plea, this claim was not raised in his petition below, and we decline to consider it for the first time on appeal. *See McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999).

Given the district court's granting of Reed's petition in part, we conclude Reed failed to demonstrate an equal protection or ex post facto violation.