

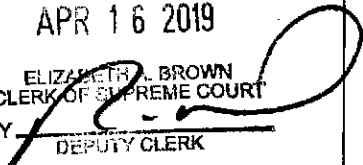
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JEREMIAH J. HOWARD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 76490-COA

FILED

APR 16 2019

ELIZABETH L. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Jeremiah J. Howard appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on June 9, 2017.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.

In his petition, Howard claimed the Nevada Department of Corrections was not applying the statutory credits he earned to his minimum sentence as required by NRS 209.4465(7).² The district court denied Howard's petition after finding he was not entitled to have good time credits applied to his parole eligibility date because he was serving a sentence based on category B felonies for crimes he committed in 2016.

On appeal, Howard claims the district court erred by concluding the exclusion in NRS 209.4465(8)(d) applies to offenders who are being punished for a category B felony pursuant to NRS 207.010(1)(a). This court

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

²We conclude the district court properly construed Howard's "motion for sentence modification and jurisdiction" as a postconviction petition for a writ of habeas corpus. See NRS 34.724(2)(c) ("a petition is the only remedy available to an incarcerated person to challenge the computation of time served").


recently held “that NRS 209.4465(8)(d) precludes application of statutory credit to an offender’s parole eligibility and minimum term for a sentence imposed pursuant to NRS 207.010.” *Doolin v. State*, 134 Nev., Adv. Op. 98 * 8, ___ P.3d ___, ___ (Ct. App. 2018).


Because Howard’s sentence was imposed pursuant to NRS 207.010(1)(a), we conclude the district court properly found Howard was not entitled to have good time credits applied to his parole eligibility date. Further, Howard was convicted of burglary, a category B felony, see NRS 205.060(2), which would have also precluded the application of credits toward his minimum term.³ See NRS 209.4465(8)(d).

To the extent Howard claimed the Nevada Department of Corrections’ decision not to apply credits toward his minimum term constituted equal protection and ex post facto violations, these claims lacked merit. See *Vickers v. Dzurenda*, 134 Nev. ___, 433 P.3d 306, 310 (Ct. App. 2018); *Weaver v. Graham*, 450 U.S. 24, 29 (1981).

Having concluded Howard is not entitled to relief, we
ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

³Howard was also convicted of carrying a concealed firearm or other deadly weapon, second or subsequent offense, a category D felony. See NRS 202.350(2)(a)(2). This sentence was ordered to run concurrently to the sentence imposed for the burglary. Because the burglary sentence would be the controlling sentence for parole eligibility, Howard would not be eligible for parole on his concurrent sentence until he served the minimum sentence for his burglary conviction. See NRS 213.1213(1).

cc: Hon. Linda Marie Bell, Chief Judge
Jeremiah J. Howard
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk