

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RUSSELL GOIN,
Appellant,
vs.
ISIDRO BACA, WARDEN,
Respondent.

No. 70846

FILED

FEB 23 2017

ELIZABETH BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Appellant Russell Goin appeals from an order of the district court denying his postconviction petition for a writ of habeas corpus filed on June 8, 2016.¹ First Judicial District Court, Carson City; James Todd Russell, Judge.

Goin claims the district court erred by denying his petition. In his petition, Goin claimed he was entitled to have statutory credits deducted from his parole eligibility each month. The district court denied Goin's petition, finding Goin is not entitled to have credits deducted from his parole eligibility date. Specifically, the district court found that NRS 209.4465(8) exempts application of credit earned pursuant to NRS 209.4465(1) from applying towards eligibility for parole or reducing Goin's minimum term because the conduct giving rise to his conviction occurred on or about August 13, 2013, and he was convicted of a category B felony. We conclude the district court did not err by finding Goin is not entitled to

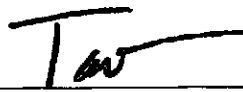
¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

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have the credit applied toward his eligibility for parole or deducted from his minimum sentence. See NRS 209.4465(8). Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

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

²We also conclude the district court did not abuse its discretion by denying Goin's motion for the appointment of counsel, see NRS 34.750(1), or by declining to hold an evidentiary hearing, see *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984) (to warrant an evidentiary hearing, a petitioner must allege specific facts that, if true, entitle him to relief). Further, while the district court erred by denying Goin's petition without giving him an opportunity to respond to the State's motion to dismiss, see NRS 34.750(4), Goin fails to demonstrate he was prejudiced by this error given the claim raised in his petition lacked merit.