

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHRISTOPHER CLAY,  
Appellant,  
vs.  
ISIDRO BACA; JAMES DZURENDA;  
AND NDOC DIRECTOR, OFFENDER  
MANAGEMENT DIVISION,  
Respondents.

No. 78336-COA

FILED

DEC 27 2019

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

*ORDER OF AFFIRMANCE*

Christopher Clay appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on January 4, 2019. First Judicial District Court, Carson City; James Todd Russell, Judge.

Clay, who was convicted pursuant to a guilty plea of attempted sexual assault, is serving a sentence of 8 to 20 years in prison. In May 2017, he filed a postconviction petition for a writ of habeas corpus challenging the computation of time served. Specifically, Clay sought the application of statutory credits to his minimum sentence in accord with *Williams v. State Dep't of Corr.*, 133 Nev. 594, 402 P.3d 1260 (2017). The district court ultimately granted Clay relief.

In his instant petition, Clay again challenged the computation of time he has served. He first claimed the Nevada Department of Corrections (NDOC) must be improperly applying statutory credits to his maximum sentence, because his parole eligibility date advanced as a result of the granting of his prior petition but his projected expiration date did not. The district court found NDOC was properly applying Clay's statutory

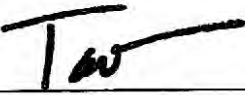
credits to his maximum sentence, and this finding is supported by the record before this court. We therefore conclude Clay was not entitled to relief on this claim.

Clay next claimed NDOC is failing to give him credit for labor and/or study where he is able and willing to work and/or study but there is insufficient opportunity to do either. An inmate must actually engage in labor or study to earn such credits. *Vickers v. Dzurenda*, 134 Nev. 747, 748, 433 P.3d 306, 308 (Ct. App. 2018). Clay did not allege he actually engaged in labor or study for which he was not properly credited. Accordingly, he failed to allege specific facts that, if true and not belied by the record, could have entitled him to relief. We therefore conclude Clay was not entitled to relief on this claim. *See Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

Finally, Clay claimed NDOC failed to credit him for living in the prison's day room. Clay failed to specify the dates he was housed in the day room and the number of days' credit he believed he was owed for each day housed therein. We therefore conclude Clay was not entitled to relief on this claim. *See id.* Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

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