

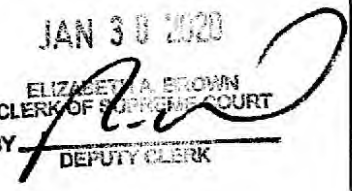
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROBERT CANTUALLA,  
Appellant,  
vs.  
THE STATE OF NEVADA  
DEPARTMENT OF CORRECTIONS;  
AND WILLIAM A. GITTERE, WARDEN,  
Respondents.

No. 78532-COA

**FILED**

JAN 30 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Robert Cantualla appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on December 10, 2018. Seventh Judicial District Court, White Pine County; Gary Fairman, Judge.

Cantualla claimed he is entitled to the application of statutory credits to his minimum sentences pursuant to NRS 209.4465(7)(b) and that the application of NRS 209.4465(8) to preclude application of the credits is a violation of the Ex Post Facto Clause. The district court found Cantualla was sentenced for category B felonies he committed in April 2017 and, accordingly, he was not entitled to the application of credits to his minimum sentence. *See* NRS 209.4465(8)(d). The record before this court contains no information from which to discern the date(s) on which Cantualla

committed his crimes. We nevertheless affirm because the district court reached the correct result. *See Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970).

Whether Cantualla is entitled to the application of credits to his minimum sentence depends on when he committed his crimes. *See Williams v. State Dep't of Corr.*, 133 Nev. 594, 595 n.1, 402 P.3d 1260, 1261 n.1 (2017). Similarly, whether the application of NRS 209.4465(8) implicates the Ex Post Facto Clause depends on whether the statute is being applied to inmates who committed their crimes before the effective date of NRS 209.4465(8). *See Weaver v. Graham*, 450 U.S. 24, 29 (1981).

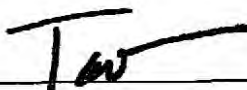
Cantualla demonstrated he was convicted of category B felonies, *see* NRS 202.360(1); NRS 205.222(3); NRS 484B.550(3), but he did not indicate when he committed them. He thus failed to support his claim with necessary specific factual allegations. *Cf. Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984) (holding a petitioner is not entitled to an evidentiary hearing where his claims are unsupported by specific factual allegations that, if true, would have entitled him to relief). We therefore conclude the district court did not err by denying Cantualla's petition.


The district court made no findings when it implicitly denied Cantualla's request for the appointment of postconviction counsel. However, the issues Cantualla presented were not difficult, he appeared able to comprehend the proceedings, and it does not appear counsel was

necessary to proceed with any discovery. We therefore conclude the district court did not abuse its discretion by denying Cantualla's motion for the appointment of postconviction counsel. See NRS 34.750(1); see generally *Renteria-Novoa v. State*, 133 Nev. 75, 391 P.3d 760 (2017). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Gary Fairman, District Judge  
Robert Cantualla  
Attorney General/Carson City  
White Pine County District Attorney  
White Pine County Clerk