

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VINCENT HENRY PINDER,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN,
Respondent.

No. 78903-COA

FILED

JAN 30 2020

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

ORDER OF AFFIRMANCE


Vincent Henry Pinder appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on November 30, 2018. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.


Pinder claims the district court erred by denying his claim that the Nevada Department of Corrections is violating NRS 209.4465 by failing to apply statutory credit to his minimum term and by also finding this claim is moot. The district court found that Pinder is currently serving a prison term of 25 years with the possibility of parole after a minimum term of 10 years has been served for his second-degree murder conviction and he had already expired the rest of his sentences. The district court found that NRS 209.4465(7)(b) prohibited the application of credit to Pinder's minimum term because his sentence requires him to serve a mandatory minimum term of 10 years before being eligible for parole. *See* NRS 200.030(5)(b). The district court further found that Pinder's claim was moot because he had already had a parole hearing on his current sentence and been denied parole. *See Williams v. State Dep't of Corr.*, 133 Nev. 594, 600 n.7, 402 P.3d 1260, 1265 n.7 (2017). The record on appeal supports the district court's

findings, and we conclude the district court did not err by denying this claim.

Pinder also claims he is entitled to have 1,031 days of credit applied to his current sentence because this credit was never applied to his sentences for his escape convictions. He asserts that because this credit was not applied to his escape sentences, he had to serve three additional years on those sentences, which delayed the date on which he commenced serving his current sentence. Pinder argues he continues to suffer an actual injury and the remedy is to apply the 1,031 days of credit to his current sentence. Pinder raised this claim for the first time in his reply to the State's response. However, because the district court did not order Pinder to file a reply, the claim was not properly raised below and it was not considered by the district court. *See* NRS 34.750(5). We decline to consider this claim in the first instance on appeal. *See McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999).

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


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Tierra Danielle Jones, District Judge
Vincent Henry Pinder
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk