

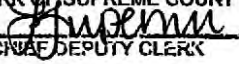
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TIMOTHY FONVILLE,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN,
Respondent.

No. 79108-COA

FILED

APR 27 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Timothy Fonville appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on November 6, 2018. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

Fonville claimed he is entitled to the application of statutory credits to his minimum sentence pursuant to NRS 209.4465(7)(b). The district court found Fonville's controlling sentence was the result of a conviction for a category B felony committed in 2018, after the effective date of NRS 209.4465(8)(d). These findings are supported by the record. Because Fonville was convicted of a category B felony, *see* NRS 205.08345(1), committed after the effective date of NRS 209.4465(8)(d), he was precluded from the application of credits to his minimum sentence. We therefore conclude the district court did not err by denying this claim.


Fonville also claimed the application of NRS 209.4465(8) violates the Ex Post Facto Clause. Fonville's claim lacked merit. A requirement for an Ex Post Facto Clause violation is that the statute applies to events occurring before it was enacted. *Weaver v. Graham*, 450 U.S. 24, 29 (1981). Because NRS 209.4465(8) was enacted before Fonville committed

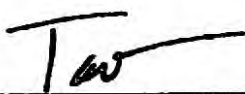
his crime, its application does not violate the Ex Post Facto Clause. We therefore conclude the district court did not err by denying this claim.

In his informal brief on appeal, Fonville challenges the validity of his judgment of conviction. As these claims were not raised below, we decline to consider them for the first time on appeal. *See McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999). Moreover, claims challenging the validity of a judgment of conviction must be raised in a separate postconviction petition for a writ of habeas corpus filed in the district court in the first instance. *See* NRS 34.724(1); NRS 34.738(3). We express no opinion as to whether Fonville could meet the procedural requirements of NRS chapter 34.

For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

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