

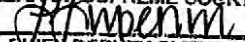
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARIO MARTINEZ-PELAYO,  
Appellant,  
vs.  
JERRY HOWELL, WARDEN,  
Respondent.

No. 79727-COA

**FILED**

APR 27 2020

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

*ORDER OF AFFIRMANCE*

Mario Martinez-Pelayo appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on June 12, 2019. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

Martinez-Pelayo claims the district court erred by denying his claim that the Nevada Department of Corrections (NDOC) was improperly denying the application of earned statutory credit to his minimum and maximum sentences. The district court found that NDOC was properly applying statutory credit to Martinez-Pelayo's maximum sentence. The district court also found Martinez-Pelayo was convicted of one count of trafficking in a controlled substance, a category B felony, *see* 1999 Nev. Stat., ch. 517, § 6, at 2639-40, for acts he committed between November 2013 and September 2014. Therefore, the district court concluded NRS 209.4465(8)(d) prohibited application of earned statutory credit to Martinez-Pelayo's minimum sentence. The record supports the district court's findings, and we conclude the district court did not err by denying this claim.


Next, Martinez-Pelayo claims the district court erred by denying his claim that NDOC's failure to apply his statutory credit to his minimum term violated the Equal Protection Clause. This claim lacked merit. *See Vickers v. Dzurenda*, 134 Nev. 747, 748-51, 433 P.3d 306, 308-310 (Ct. App. 2018) (rejecting similar claim). Therefore, we conclude the district court did not err by denying this claim.

Martinez-Pelayo also claims the district court erred by denying his claim regarding work and meritorious credit. After reviewing the petition filed below and Martinez-Pelayo's brief on appeal, we conclude Martinez-Pelayo failed to support his work and meritorious credit claim with specific facts that, if true and not belied by the record, would entitle him to relief. *See Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). Martinez-Pelayo failed to allege under what circumstances he was entitled to these credits. Therefore, we conclude the district court did not err by denying this claim.

Finally, to the extent Martinez-Pelayo claimed he was entitled to the application of statutory credit pursuant to NRS 209.4465(9), his claim lacked merit. NRS 209.4465(9) simply sets a limit on the amount of statutory credit that can be applied to a minimum sentence for certain offenders. We therefore conclude the district court did not err by denying this claim. Accordingly we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Tierra Danielle Jones, District Judge  
Mario Martinez-Pelayo  
Attorney General/Carson City  
Attorney General/Las Vegas  
Eighth District Court Clerk