

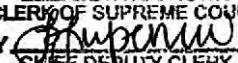
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHARLES ERIC STEWART,  
Appellant,  
vs.  
THE STATE OF NEVADA; AND BRIAN  
WILLIAMS, WARDEN,  
Respondents.

No. 79344-COA

**FILED**

MAY 26 2020

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

*ORDER OF AFFIRMANCE*

Charles Eric Stewart appeals from a single district court order that denied postconviction petitions for a writ of habeas corpus filed in district court case numbers A-19-790367-W and A-19-790369-W. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

In both of his petitions, Stewart alleged that he was entitled to the application of credit to his minimum terms. The State filed a response in each case that addressed both petitions and asked the district court to consolidate the petitions. The district court granted the motion to consolidate. The court found that Stewart is actively serving a term of life with the possibility of parole after a minimum term of ten years has been served for an offense he committed in 2006. The district court therefore determined that NRS 209.4465(7)(b) prohibited the application of credit to Stewart's minimum term of his active sentence and denied the petitions.

On appeal, Stewart states the petitions filed below were not duplicates because each petition challenged the sentence imposed in different judgments of conviction: the petition in A-19-790369-W challenged the denial of credit to his sentence for attempted possession of a controlled substance in district court case number C216511, while the

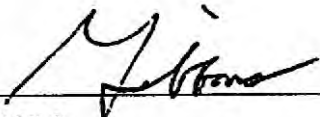
petition in A-19-790367-W challenged the denial of credit to his sentence for second-degree murder with the use of a deadly weapon in district court case number C220556. Therefore, he argues it was improper for the district court to grant the motion to consolidate the petitions.

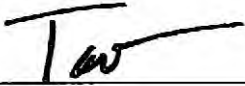
In both petitions, Stewart alleged that he was entitled to have credit applied to his minimum sentence. The resolution of both petitions required the district court to determine which sentence Stewart is actively serving. Because the resolution of both petitions required resolution of the same facts, we conclude the district court did not abuse its discretion by granting the State's motion to consolidate the petitions.

To the extent Stewart alleges the district court erred by denying his petitions, this claim lacks merit. The district court correctly concluded that NRS 209.4465(7)(b) precludes the application of credit to the minimum term of Stewart's active term because he was sentenced pursuant to a statute that required him to serve a mandatory minimum term before being eligible for parole. *See* NRS 200.030(5)(a); 1995 Nev. Stat., ch. 455, § 1, at 1431 (former NRS 193.165(1)) (requiring the imposition of a sentence "equal and in addition to the term of imprisonment prescribed by the statute for the crime"); *Perez v. Williams*, 135 Nev. 189, 191, 444 P.3d 1033, 1034 (2019) (holding "the relevant sentencing statute for purposes of NRS 209.4465(7)(b) is the one that prescribed the sentence for the primary offense"). And, Stewart acknowledges on appeal that in 2007 he expired the sentence imposed in district court case number C216511. The expiration of that sentence rendered any challenge to the application of credit to that sentence moot. *See Williams v. State, Dep't of Corr.*, 133 Nev. 594, 600 n.7, 402 P.3d 1260, 1265 n.7 (2017) ("[N]o relief can be afforded where the

offender has already expired the sentence or appeared before the parole board on the sentence.” (internal citation omitted)). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

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