

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAMES ANDREW BZDZIUCH,
Appellant,
vs.
JERRY HOWELL, WARDEN,
Respondent.

No. 79872-COA

FILED

JUN 12 2020

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

ORDER OF AFFIRMANCE

James Andrew Bzdziuch 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.

Bzdziuch claimed his constitutional rights were violated because the Nevada Department of Corrections (NDOC) failed to properly apply his statutory credits to his minimum aggregated sentence pursuant to NRS 209.4465(9)(a). NRS 209.4465(9) merely limits the amount of credits that may be applied. Accordingly, his claim lacked merit.

To the extent Bzdziuch claimed he was entitled to application of the credits pursuant to NRS 209.4465(7)(b), his claim lacked merit. The district court found his controlling individual sentences were the result of convictions for crimes committed in 2016, after the effective date of NRS 209.4465(8)(d). These findings are supported by the record. Because Bzdziuch's controlling individual sentences were for category B felonies, see NRS 205.060(2); NRS 205.380(1)(a); NRS 453.3385(1)(a), committed after the effective date of NRS 209.4465(8)(d), he was precluded from the application of credits to his minimum aggregated sentence.


Bzdziuch also claimed he is entitled to the application of statutory credits to his maximum aggregated sentence. The district court found NDOC was properly applying the statutory credits to Bzdziuch's maximum aggregated sentence. This finding is supported by the record. Accordingly, his claim lacked merit.

Finally, Bzdziuch appeared to claim he is entitled to labor and educational credits because he is willing and able to participate. Bzdziuch did not claim he engaged in labor or educational opportunities for which he was denied credits. Accordingly, his claim lacked merit. *See Vickers v. Dzurenda*, 134 Nev. 747, 748, 433 P.3d 306, 308 (Ct. App. 2018).

For the foregoing reasons, we conclude the district court did not err by denying Bzdziuch's claims, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

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