

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTHONY KENNETH ANDERSON,  
Appellant,  
vs.  
JERRY HOWELL, WARDEN; THE  
STATE OF NEVADA; AND OFFENDER  
MANAGEMENT DIVISION,  
Respondents.

No. 80625-COA

**FILED**

JUL 30 2020

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

*ORDER OF AFFIRMANCE*

Anthony Kenneth Anderson appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on October 22, 2019. Eighth Judicial District Court, Clark County; Joseph Hardy, Jr., Judge.

Anderson argues the district court erred by denying his claims regarding applying statutory and program credits toward his sentence for count one. He further argues the district court erred by denying his claim that he was entitled to work credits because he was willing to work. The district court found Anderson previously filed a postconviction petition on December 11, 2018, that raised the same claims, and the district court denied that petition on May 14, 2019.<sup>1</sup> These findings are supported by the record on appeal. Because Anderson raised these claims in a prior petition, they were procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.810(2), (3). Anderson failed to allege good

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<sup>1</sup>Anderson did not appeal from that decision.

cause and prejudice to overcome the procedural bar. Therefore, we conclude the district court did not err by denying these claims as successive.

Next, Anderson argues the district court erred by denying his claim that he was entitled to credits for time served in residential confinement. Anderson failed to allege when he served time in residential confinement; therefore, he failed to support this claim with specific facts that, if true and not belied by the record, would entitle him to relief. See *Rippo v. State*, 134 Nev. 411, 426, 423 P.3d 1084, 1100 (2018). Accordingly, we conclude the district court did not err by denying this claim.

Next, Anderson argues the district court erred by denying his claim that the Nevada Department of Corrections (NDOC) was improperly refusing to consider him for a minimum security prison and work release because NDOC incorrectly determined he was convicted of a sexual offense. Further, Anderson claims the district court erred by denying his claim that NDOC was violating the Americans with Disabilities Act by not allowing him to work. Finally, Anderson claims the district court erred by denying his claim that he was entitled to be considered for a re-entry program. These claims challenged the conditions of confinement and, therefore, were outside the scope of claims permissible to be raised in a postconviction petition for writ of habeas corpus challenging the computation of time served. See *Bowen v. Warden*, 100 Nev. 489, 490, 686 P.2d 250, 250 (1984). Accordingly, we conclude the district court did not err by denying these claims.

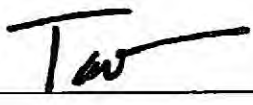
Next, Anderson argues the district court erred by denying his claim that he has served more time than required because he served more than 40% of his maximum term. He claimed that his guilty plea agreement stated he would not serve more than 40% of his maximum sentence.

Anderson's belief regarding the guilty plea agreement is a challenge to the validity of his plea, which is outside the scope of a postconviction petition challenging the computation of time served. See NRS 34.738(3). Therefore, we conclude the district court did not err by denying this claim.

Finally, Anderson argues the district court erred by denying his claims without first holding an evidentiary hearing. Because Anderson's claims were procedurally barred, outside the scope, or not properly supported, he failed to demonstrate he was entitled to an evidentiary hearing. See *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Joseph Hardy, Jr., District Judge  
Anthony Kenneth Anderson  
Attorney General/Carson City  
Attorney General/Las Vegas  
Eighth District Court Clerk