

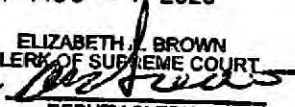
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KEYLO MCCULLOUGH,  
Appellant,  
vs.  
BRIAN WILLIAMS, WARDEN,  
Respondent.

No. 79984-COA

FILED

AUG 24 2020

ELIZABETH J. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER OF AFFIRMANCE

Keylo McCullough appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

In his August, 16, 2019, petition, McCullough first appeared to claim the Nevada Department of Corrections (NDOC) erroneously failed to apply his statutory credits toward his minimum parole eligibility date for his 2014 conviction of home invasion. The district court concluded McCullough had previously received a parole hearing for this sentence and the hearing rendered his claim concerning the computation of his time served moot. The record before this court supports the district court's decision, and we conclude the district court did not err by denying this claim. *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)).

To the extent McCullough also contended NDOC failed to apply statutory credits toward his expiration date, his claim lacked merit. A petitioner is not entitled to relief for claims unsupported by factual allegations or belied by the record. *See Rippo v. State*, 134 Nev. 411, 426,

423 P.3d 1084, 1100 (2018). McCullough's claim that NDOC failed to apply his credit toward his maximum term was belied by the record. Therefore, we conclude the district court did not err by denying these claims.

Second, McCullough claimed he was entitled to additional work or education credits for times he was willing to perform those activities but was unable to do so. We conclude the district court properly determined McCullough was not entitled to work credits for work he did not actually perform. See NRS 209.4465(2); *Vickers v. Dzurenda*, 134 Nev. 747, 748, 433 P.3d 306, 308 (Ct. App. 2018). McCullough also did not have a right to attend the prison's educational programs. See NRS 209.387; NRS 209.389(4). McCullough did not demonstrate that the unavailability of prison employment or educational programs, and the resulting lack of opportunities to earn statutory credits, violated any protected right.

Third, McCullough appeared to claim that NDOC's failure to apply credits to all inmates in a uniform manner violates the Equal Protection Clause. This court has addressed a similar claim and found it to lack merit. See *Vickers*, 134 Nev. at 751, 433 P.3d at 310. Therefore, the district court properly found McCullough was not entitled to relief. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

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