

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DARIN SCOTT ROBBINS,
Appellant,
vs.
JERRY HOWELL, WARDEN;
OFFENDER MANAGEMENT
DIVISION; THE STATE OF NEVADA;
AND DWAYNE DEAL,
Respondents.

No. 80365-COA

FILED

SEP 18 2020

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

ORDER OF AFFIRMANCE

Darin Scott Robbins 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 September 4, 2018, petition and later-filed supplements, Robbins contended the Nevada Department of Corrections (NDOC) inaccurately calculated his overall sentence because it improperly considered his sentence for kidnapping with the use of a deadly weapon to be the controlling term. Robbins contended that a concurrent sentence for burglary while in possession of a deadly weapon should have been the controlling term. Robbins asserted that, if that sentence had controlled, all of the parole hearings for his various terms would have occurred at an earlier time and his expiration date would arrive sooner.

The district court found Robbins was sentenced to serve concurrent terms for convictions of burglary while in possession of a deadly weapon, conspiracy to commit robbery, and kidnapping with the use of a deadly weapon. The district court further found Robbins' parole eligibility date was based on the sentence that required the longest period before he

was eligible for parole and, for that reason, Robbins' controlling term was the term for kidnapping with the use of a deadly weapon.¹ These findings are supported by the record before this court. See NRS 213.1213(1). Therefore, Robbins did not demonstrate NDOC erred when calculating his overall sentence, his parole hearing dates, or his projected expiration date.² Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

¹Robbins was sentenced to serve a term of 35 to 180 months in prison for burglary while in possession of a deadly weapon, 13 to 60 months in prison for conspiracy to commit robbery, and 60 to 180 months in prison for kidnapping with a consecutive term of 24 to 60 months in prison for the deadly weapon enhancement.

²Robbins argues the district court erred because it did not address whether NDOC has properly calculated application of his credits toward his remaining minimum terms. However, the district court found Robbins was not entitled to application of credits toward his minimum terms for the conviction of kidnapping with the use of a deadly weapon because he was sentenced pursuant to statutes that specified a minimum sentence that must be served before a defendant becomes eligible for parole. See NRS 193.165(1) (1995); NRS 200.320(2)(b); see also *Williams v. State Dep't of Corr.*, 133 Nev. 594, 596, 402 P.3d 1260, 1262 (2017). The district court also found that Robbins will be entitled to application of credits toward his minimum terms for robbery with the use of a deadly weapon when Robbins begins to serve those terms. Because the district court addressed the application of Robbins' credits toward his remaining minimum terms, Robbins fails to demonstrate he is entitled to relief.

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