

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTHONY BRIAN HAWKINS,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN,
Respondent.

No. 80555-COA

FILED

SEP 23 2020

ELIZABETH A. GROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE


Anthony Brian Hawkins appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on September 13, 2019. Eighth Judicial District Court, Clark County; Joseph Hardy, Jr., Judge.


Hawkins claimed he was entitled to the application of statutory credits to his minimum sentences. The district court found Hawkins' sentences were aggregated and he had already appeared for a parole hearing. These findings are supported by the record. Accordingly, Hawkins' claim was moot. *See Williams v. State Dep't of Corr.*, 133 Nev. 594, 600 n.7, 402 P.3d 1260, 1265 n.7 (2017).

Hawkins next claimed he was entitled to labor and study credits for times he was able and ready to participate but the Nevada Department of Corrections (NDOC) did not have enough opportunities available. This court has addressed a similar claim and found it to lack merit. *See Vickers v. Dzurenda*, 134 Nev. 747, 748, 433 P.3d 306, 308 (Ct. App. 2018) (analyzing statute that allows for credits for "diligence in labor and study" (quotation marks omitted)).

Finally, Hawkins contends on appeal that the district court erred by not considering his supplemental pleading filed on November 27, 2019, and by denying his claim without conducting a hearing. It is within the district court's discretion whether to consider additional pleadings, *see* NRS 34.750(5), and Hawkins does not demonstrate the district court abused its discretion by not considering Hawkins' additional pleading. Further, the district court is not required to conduct a hearing if it determines a petitioner is not entitled to relief. *See* NRS 34.770(2). For the foregoing reasons, we conclude Hawkins is not entitled to relief. Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

¹In his informal brief on appeal, Hawkins contends NDOC's calculation of his sentence violates the Ex Post Facto Clause and SB 71. He also contends the district court overlooked NRS 209.461. These are new arguments not properly raised below, *cf. Barnhart v. State*, 122 Nev. 301, 303-04, 130 P.3d 650, 651-52 (2006), and we decline to consider them on appeal in the first instance, *see McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999).

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