

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID LEROY WALKER,
Appellant,
vs.
JERRY HOWELL, WARDEN,
Respondent.

No. 80720-COA

FILED

NOV 09 2020

ELIZABETH A. BLOWEN
CLERK OF SUPREME COURT
BY: 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

David Leroy Walker appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on August 19, 2019. Eighth Judicial District Court, Clark County; Joseph Hardy, Jr., Judge.

Walker claimed he is entitled to the application of statutory credits to his minimum sentences pursuant to NRS 209.4465(7)(b). The district court found Walker's sentences were for category B and/or violent felonies committed in 2017 and 2018: a habitual criminal adjudication following a conviction for assault on an officer by a prisoner; second-degree kidnapping, and battery constituting domestic violence – strangulation. These findings are supported by the record. *See* NRS 200.330; NRS 200.471(1)(a); NRS 200.481(1)(a); NRS 207.010(1)(a). Because Walker was convicted of violent and/or category B felonies committed after the effective date of NRS 209.4465(8)(d), *see* 2007 Nev. Stat., ch. 525, § 22, at 3196, he was precluded from the application of credits to his minimum sentence. We therefore conclude the district court did not err by denying this claim.


Walker also claimed the application of NRS 209.4465(8) violates the Ex Post Facto Clause. A requirement for an Ex Post Facto

Clause violation is that the statute applies to events occurring before it was enacted. *Weaver v. Graham*, 450 U.S. 24, 29 (1981). Because NRS 209.4465(8) was enacted before Walker committed his crimes, its application does not violate the Ex Post Facto Clause. We therefore conclude the district court did not err by denying this claim.

Finally, Walker claimed that his right to equal protection under the law was violated because a similarly situated inmate received relief. Walker provided an order granting relief to the other inmate, which indicated that inmate's sentences were the result of a combination of convictions that fell both within and outside of NRS 209.4465(8)'s exceptions. As explained above, all of Walker's convictions fell within NRS 209.4465(8)'s exceptions. Walker thus failed to demonstrate he was similarly situated to the other inmate and, accordingly, that he was denied the right to equal protection under the law. We therefore conclude the district court did not err by denying this claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Joseph Hardy, Jr., District Judge
David Leroy Walker
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk