

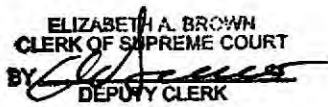
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LESTER LEE TELLIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 81097-COA

FILED

DEC 21 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Lester Lee Tellis appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on October 16, 2019. Eighth Judicial District Court, Clark County; Joseph Hardy, Jr., Judge.

Tellis claimed the Nevada Department of Corrections (NDOC) violated the Ex Post Facto Clause by applying NRS 209.4465(8) to him and violated the Due Process Clause by failing to apply NRS 209.4465(9) to him. Because Tellis committed his crimes in 1987, NRS 209.446 and not NRS 209.4465 governs the application of statutory credits to his sentences. See NRS 209.446(1) (stating it applies to “crime[s] committed on or after July 1, 1985, but before July 17, 1997”); NRS 209.4465(1) (stating it applies to “crime[s] committed on or after July 17, 1997”). The district court’s finding that NDOC is properly applying credits in accord with NRS 209.446 to Tellis’s sentences is supported by the record before this court. We therefore conclude the district court did not err by denying these claims.

Tellis next claimed NDOC's refusal to apply the Nevada Supreme Court's decision in *Williams v. State Dep't of Corr.*, 133 Nev. 594, 402 P.3d 1260 (2017), to his sentence violates the Equal Protection Clause. *Williams* discussed the application of NRS 209.4465, and as discussed above, NRS 209.4465 does not apply to Tellis. Further, this court has already concluded that treating prisoners differently based on when they committed their crimes does not violate the Equal Protection Clause. See *Vickers v. Dzurenda*, 134 Nev. 747, 751, 433 P.3d 306, 310 (Ct. App. 2018). We therefore conclude the district court did not err by denying this claim.


Finally, Tellis claimed NDOC was applying *Bowen v. Warden*, 100 Nev. 489, 686 P.2d 250 (1984), retroactively and to his detriment when it calculated his credits based on separate sentences. Tellis has been paroled from his first sentence of five years to life in prison and has already been denied parole on his second sentence of five years to life in prison, which he is currently serving. Accordingly, insofar as his claims applied to those sentences, they are moot. See *Johnson v. Dir., Nev. Dep't of Prisons*, 105 Nev. 314, 316, 774 P.2d 1047, 1049 (1989); *Niergarth v. Warden*, 105 Nev. 26, 29, 768 P.2d 882, 883-84 (1989). And claims regarding sentences that Tellis has not yet begun to serve are not ripe for review.¹ See *Cote H.*

¹We note that the record before this court demonstrates Tellis has elected to have NDOC aggregate all of Tellis's remaining sentences once he is paroled from his current sentence.

v. Eighth Judicial Dist. Court, 124 Nev. 36, 38 n.1, 175 P.3d 906, 907 n.1 (2008). 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
Lester Lee Tellis
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk