

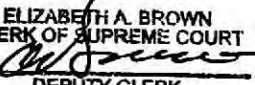
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOHNNY JONES,
Appellant,
vs.
THE STATE OF NEVADA; THE STATE
OF NEVADA DEPARTMENT OF
CORRECTIONS; AND BRIAN
WILLIAMS, WARDEN,
Respondents.

No. 80977-COA

FILED

DEC 21 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Johnny Jones appeals from a district court order denying a December 12, 2019, postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Joseph Hardy, Jr., Judge.

First, Jones argues the district court erred by denying his claim that the Nevada Department of Corrections improperly declined to apply his statutory credits toward his minimum parole eligibility date for the deadly weapon enhancement portion of his sentences. In his petition, Jones claimed that the sentencing terms imposed pursuant to the deadly weapon enhancement did not require him to serve a minimum term before he was eligible for parole, the deadly weapon enhancement is not a category A or B felony, and for those reasons, NRS 209.4465(8) does not apply to those terms.

A person convicted of a category A or B felony, or of a felony that involves the use or threat of violence, for an offense committed after June 30, 2007, is not entitled to have credits applied to his or her minimum sentence for that offense. *See* NRS 209.4465(8)(a), (d). Jones challenged

the calculation of his sentences stemming from convictions of several counts of robbery with the use of a deadly weapon, a crime of violence and a category B felony, *see* NRS 200.380(2); NRS 193.165(1), that he committed in 2013. The deadly weapon enhancement is not a crime separate from the primary offense, *see* NRS 193.165(3); *Nev. Dep't of Prisons v. Bowen*, 103 Nev. 477, 479, 745 P.2d 697, 698 (1987) (“[T]he enhancement sentence for the use of a deadly weapon in the commission of a crime constituted an additional penalty for the primary offense rather than a separate offense.”), and therefore, the application of credits to the terms for the deadly weapon enhancement is treated the same as application of credits to the terms for the primary offense. Because Jones was not entitled to the application of statutory credits to the minimum terms of his primary offenses, he was likewise not entitled to the application of credits to the minimum terms of the deadly weapon enhancements. Moreover, Jones’s contention that refusal to apply credits to his parole eligibility date would result in a violation of the Double Jeopardy Clause is without merit. *See Bowen*, 103 Nev. at 479-81, 745 P.2d at 698-99. Therefore, the district court did not err by denying this claim.¹

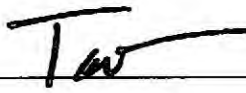
Second, Jones appears to argue that the failure to apply credits to all inmates in a uniform manner violates the Equal Protection Clause. This court has addressed a similar claim and found it to lack merit. *See*


¹Jones also appears to ask this court to overturn the Nevada Supreme Court’s decision in *Perez v. Williams*, 135 Nev. 189, 444 P.3d 1033 (2019). Even were this court so inclined, this court cannot overrule Nevada Supreme Court precedent. *See People v. Solorzano*, 63 Cal. Rptr. 3d 659, 664 (2007), *as modified* (Aug. 15, 2007) (“The Court of Appeal must follow, and has no authority to overrule, the decisions of the California Supreme Court.” (quotation marks and internal punctuation omitted)).

Vickers v. Dzurenda, 134 Nev. 747, 748-51, 433 P.3d 306, 308-10 (Ct. App. 2018). Therefore, the district court properly found Jones was not entitled to relief. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

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