

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ELDER ZACARIAS-LOPEZ,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN; HIGH
DESERT STATE PRISON; OFFENDER
MANAGEMENT DIVISION; AND THE
STATE OF NEVADA,
Respondents.

No. 80737-COA

FILED

JUN 07 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Elder Zacarias-Lopez appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on December 24, 2018. Eighth Judicial District Court, Clark County; Joseph Hardy, Jr., Judge.

Zacarias-Lopez claimed the Nevada Department of Corrections (NDOC) failed to apply statutory credits to his minimum sentence pursuant to *Williams v. State Dep't of Corr.*, 133 Nev. 594, 402 P.3d 1260 (2017). The district court found Zacarias-Lopez was convicted of first-degree murder with the use of a deadly weapon, which he committed in 2001. These findings are supported by the record before this court. Zacarias-Lopez was sentenced pursuant to a statute that provided for "eligibility for parole beginning when a minimum of 20 years has been served." NRS 200.030(4)(b)(3); see 1995 Nev. Stat., ch. 455, § 1, at 1431 (former NRS 193.165(2)). Because he was sentenced pursuant to a statute that specified

a minimum sentence that must be served before he became eligible for parole, he was precluded from the application of credits to his minimum sentence. See NRS 209.4465(7)(b) (providing for application of credits “to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole”); *Williams*, 133 Nev. at 597-99, 402 P.3d at 1263-64. We therefore conclude the district court did not err by denying this claim.

Zacarias-Lopez next claimed NDOC failed to credit his maximum sentence with the full amount of statutory good-time credit to which he was entitled, all of the hours of labor he performed, and 45 days for completing “High School/GED.” Zacarias-Lopez’s bare claims did not specify what good-time credit NDOC failed to apply, the hours he worked for which he did not receive credit, or which of the two study programs he completed and when he completed it. Moreover, the record before this court demonstrates NDOC applied all of the statutory good-time credits to which Zacarias-Lopez was entitled to his maximum sentence. We therefore conclude the district court did not err by denying these claims. See *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984) (requiring a petitioner to raise claims supported by specific factual allegations that are not belied by the record and, if true, would entitle him to relief).


Finally, Zacarias-Lopez claimed NDOC failed to credit his maximum sentence with labor and/or study credits he was willing and able to perform but for which there were insufficient opportunities. Inmates are not entitled to credits for which they have not performed the labor and/or

study. *See Vickers v. Dzurenda*, 134 Nev. 747, 748, 433 P.3d 306, 308 (Ct. App. 2018). 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
Elder Zacarias-Lopez
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk