


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RAMON JACOBO GARCIA,
Appellant,
vs.
CHARLES DANIELS, WARDEN;
OFFENDER MANAGEMENT
DIVISION; AND THE STATE OF
NEVADA,
Respondents.

No. 87553-COA

FILED

JUN 04 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Ramon Jacobo Garcia appeals from a district court order denying a postconviction petition for a writ of habeas corpus challenging the computation of time served. Eighth Judicial District Court, Clark County; Erika D. Ballou, Judge.

In his petition, filed on May 23, 2023, Garcia claimed he was entitled to the application of statutory credits to the minimum sentences of his category B felony convictions. At the time Garcia committed his crimes, NRS 209.4465(7)(b) allowed for the application of statutory credits to minimum sentences only where the offender was not "sentenced pursuant to a statute which specifies a minimum sentence that must be served before

a person becomes eligible for parole.” 1999 Nev. Stat., ch. 552, § 8, at 2881. However, where an offender has already expired the sentence, no relief can be granted because the application of credits can only make the offender eligible for parole at an earlier date. *Williams v. State Dep’t of Corr.*, 133 Nev. 594, 600 n.7, 402 P.3d 1260, 1265 n7 (2017).

Garcia was convicted in one case of robbery with the use of a deadly weapon, and he was sentenced to two consecutive terms of 36 to 120 months. Because he expired that sentence in 2011, there is no relief available for that sentence.

Garcia was also ultimately convicted in another case of three counts of burglary while in possession of a firearm, two counts of robbery with the use of a deadly weapon, two counts of first-degree kidnapping with the use of a deadly weapon, and one count of attempted robbery with the use of a deadly weapon for crimes committed in 2001. The district court imposed consecutive sentences of five years to life in prison for the kidnapping counts and equal and consecutive sentences for the deadly weapon enhancements. Because sentences for the remaining charges were of shorter duration and imposed to run concurrently to the kidnapping counts, the sentences for the kidnapping counts are controlling. And the kidnapping statute pursuant to which Garcia was sentenced provides for a minimum sentence of five years that must be served before the offender

becomes eligible for parole. See NRS 200.320(2)(a). Accordingly, Garcia is not entitled to the application of credits to his minimum sentences, and we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Erika D. Ballou, District Judge
Ramon Jacobo Garcia
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹Garcia compares himself to his codefendant who, he claims, has been released on parole. We note that the record before this court shows Garcia's codefendant was sentenced to terms totaling 190 months to life in prison. In contrast, Garcia's total sentences between his two cases are 312 months to life in prison.