

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

EMILIANO ALCAZAR,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN,
Respondent.

No. 72111

FILED

SEP 13 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Emiliano Alcazar appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge.


Alcazar argues the district court erred in denying his petition. In his June 24, 2016, petition, Alcazar claimed the Nevada Department of Corrections (NDOC) improperly declined to apply his statutory credits toward his minimum terms. The district court concluded Alcazar was not entitled to relief because Alcazar is serving prison terms for category B felonies, committed in 2012 and 2013, and for those reasons, the NDOC may only apply Alcazar's statutory credits toward his maximum terms pursuant to NRS 209.4465(8)(d).² Given these circumstances, we conclude the district court did not err in denying the petition.

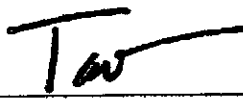
¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).


²The record demonstrates Alcazar was convicted of two counts of midlevel trafficking in a controlled substance, category B felonies. See NRS 453.3385(1)(b).

Alcazar also appears to argue the NDOC has improperly failed to apply 21 days of presentence credit awarded to him in the judgment of conviction. However, a review of the record demonstrates Alcazar did not raise this issue in his petition before the district court. Because Alcazar did not raise this claim in the district court, we decline to consider it in the first instance. See *McNelson v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Linda Marie Bell, District Judge.
Emiliano Alcazar
Attorney General/Carson City
Eighth District Court Clerk