

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GERRY FOSTER,
Appellant,
vs.
THE STATE OF NEVADA
DEPARTMENT OF CORRECTIONS;
AND ISIDRO BACA, WARDEN,
Respondents.

No. 73183

FILED

APR 11 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Gerry Foster appeals from an order of the district court denying the postconviction petition for a writ of habeas corpus he filed on April 10, 2017.¹ First Judicial District Court, Carson City; James Todd Russell, Judge.


In his petition, Foster claimed the Nevada Department of Corrections (NDOC) improperly declined to apply his statutory credits toward his minimum term. The district court denied the petition because Foster is serving a prison term for trafficking in a controlled substance, a category B felony, *see* NRS 453.3385(1)(b), and he committed his crime in 2015. For those reasons, the district court found the NDOC may only apply Foster's statutory credits toward his maximum term pursuant to NRS

¹This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).

209.4465(8)(d).² Given these circumstances, we conclude the district court did not err by denying this claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. James Todd Russell, District Judge
Gerry Foster
Attorney General/Carson City
Attorney General/Las Vegas
Carson City Clerk

²We conclude Foster failed to demonstrate NRS 209.4465(7)(b) and NRS 209.4465(8) are ambiguous. *See State v. Catanio*, 120 Nev. 1030, 1033, 102 P.3d 588, 590 (2004) (a statute is ambiguous if the language “lends itself to two or more reasonable interpretations”).