

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL DALE RULE,
Appellant,
vs.
JO GENTRY, WARDEN
Respondent.

No. 73829

FILED

MAR 14 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Michael Dale Rule appeals from an order of the district court denying his December 30, 2016, postconviction petition for a writ of habeas corpus challenging the computation of time he has served.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge.

In his petition below, Rule first claimed the Nevada Department of Corrections (NDOC) is not applying statutory credits to his minimum sentences pursuant to NRS 209.4465(7)(b). Rule's claim lacks merit. NRS 209.4465(7) begins, "Except as otherwise provided in subsection[] 8," and NRS 209.4465(8)(d) specifically excludes offenders convicted of category B felonies from applying statutory credits to their minimum sentences. Rule's sentence was for a category B felony, *see* NRS 205.060(2), for an offense committed after NRS 209.4465(8)'s effective date.

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

Accordingly, Rule is not entitled to the application of credits to his minimum sentence. *See Williams v. Nevada Dep't of Corr.*, 131 Nev. ___, ___ n.1, 402 P.3d 1260, 1261 n.1 (2017) (limiting the applicability of the decision to sentences for crimes committed prior to the 2007 amendments to NRS 209.4465).

Rule also claimed he was entitled to work credits because he was willing and able to work. Rule's claim lacks merit. Rule did not claim he performed work for which he was entitled to credit, and NRS 209.4465(2) requires prisoners to actually work to earn the credits. Accordingly, Rule did not demonstrate he was entitled to work credits.

Rule also claimed he was entitled to credits for educational programs. Rule's bare claim did not indicate when he participated in the programs or how much credit he believed he had earned. Accordingly, Rule did not demonstrate he was entitled to any additional educational credits. *See Hargrove v. State*, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984) (requiring claims to contain specific factual allegations that, if true, would entitle the petitioner to relief).


Finally, Rule claimed he was entitled to additional presentence credit for time served. Rule's claim was a challenge to the validity of the judgment of conviction, *see Griffin v. State*, 122 Nev. 737, 744, 137 P.3d 1165, 1169 (2006), and such claims may not be raised in a petition challenging the computation of time served, NRS 34.738(3). Moreover, as a

separate and independent ground to deny relief, Rule's bare claim failed to indicate why he believed he was entitled to additional presentence credits.

For the foregoing reasons, we conclude the district court did not err in denying Rule's petition, and we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Linda Marie Bell, District Judge
Michael Dale Rule
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²We have reviewed all documents Rule has filed in this matter, and we conclude no relief based upon those submissions is warranted. To the extent Rule has attempted to present other claims or facts in those submissions that were not previously presented in the proceedings below, we decline to consider them in the first instance.