

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JERRY GLENN SELBACH,
Appellant,
vs.
ISIDRO BACA, WARDEN,
Respondent.

No. 73515

FILED

JUN 13 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Yarnes
DEPUTY CLERK

ORDER VACATING JUDGMENT AND REMANDING

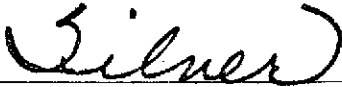
Jerry Glenn Selbach appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. First Judicial District Court, Carson City; James Todd Russell, Judge.


In his February 22, 2016, petition, Selbach claimed the Nevada Department of Corrections incorrectly refused to apply the credits he has earned pursuant to NRS 209.4465 toward the minimum term he is serving for his aggravated stalking conviction. In rejecting Selbach's claim, the district court did not have the benefit of the Nevada Supreme Court's recent decision in *Williams v. State Department of Corrections*, 133 Nev. ___, 402 P.3d 1260 (2017).¹ There, the court held claims such as Selbach's are cognizable in a postconviction petition for a writ of habeas corpus and credits apply to parole eligibility, as provided in NRS 209.4465(7)(b) (1997), when an offender has been sentenced pursuant to a statute that does not expressly mention parole eligibility.

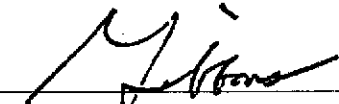
¹Having considered the record before this court and given the decision in *Williams*, we conclude a response is not necessary. See NRAP 46A(c). This appeal has been submitted for decision based on the record. See NRAP 34(f)(3), (g).

Selbach is serving a sentence for aggravated stalking committed on or about December 21, 2006. See NRS 200.575(2) (2003). Consistent with *Williams*, the credits Selbach has earned pursuant to NRS 209.4465 should be applied to his parole eligibility on the sentence he is serving for that conviction. The district court erred in ruling to the contrary.² Accordingly, we

ORDER the judgment of the district court VACATED AND REMAND this matter to the district court to reconsider its decision in light of the *Williams* decision.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. James Todd Russell, District Judge
Jerry Glenn Selbach
Attorney General/Carson City
Carson City Clerk

²The district court cannot grant Selbach any relief on his sentence for aggravated stalking if he has already appeared before the parole board for that sentence. See *Williams*, 133 Nev. at ___ n.7, 402 P.3d at 1265 n.7. It is unclear from the record before this court whether Selbach has appeared before the parole board for his aggravated stalking sentence and the district court may consider any evidence in that respect on remand.