

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL NORMAN BERGT,  
Appellant,  
vs.  
ISIDRO BACA, WARDEN,  
Respondent.

No. 74881

**FILED**

OCT 25 2018

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

*ORDER OF AFFIRMANCE*

Michael Norman Bergt appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on September 1, 2017.<sup>1</sup> First Judicial District Court, Carson City; James E. Wilson, Judge.

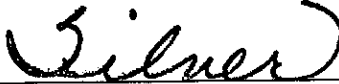
Bergt claimed he was entitled to the application of statutory credits to his minimum sentences pursuant to NRS 209.4465(7)(b). Bergt's claim lacked merit. NRS 209.4465(7) begins, "[e]xcept as otherwise provided in subsection[ ] 8," and NRS 209.4465(8)(a) specifically excludes offenders convicted of felonies involving "the use or threatened use of force or violence against the victim" from applying statutory credits to their minimum sentences. Bergt was convicted of battery constituting domestic violence with substantial bodily harm to a victim 60 years of age or older and attempted murder of a victim 60 years of age or older, both of which were committed after NRS 209.4465(8)'s effective date. Accordingly, Bergt is not entitled to the application of credits to his minimum sentences.

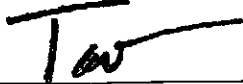
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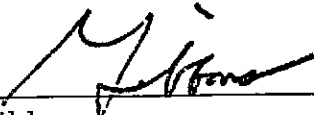
<sup>1</sup>This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).

Bergt also claimed the application of NRS 209.4465(8) violates the Ex Post Facto Clause. Bergt's claim lacked merit. A requirement for an Ex Post Facto Clause violation is that the statute applies to events occurring before it was enacted. *Weaver v. Graham*, 450 U.S. 24, 29 (1981). Because NRS 209.4465(8) was enacted before Bergt committed his crimes, its application does not violate the Ex Post Facto Clause.

Having concluded Bergt's claims lack merit, we  
ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. James E. Wilson, District Judge  
Michael Norman Bergt  
Attorney General/Carson City  
Carson City Clerk