

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JESUS O. BENITEZ, JR.,
Appellant,
vs.
ISIDRO BACA, WARDEN,
Respondent.

No. 75234-COA

FILED

JAN 17 2019

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

ORDER OF AFFIRMANCE

Jesus O. Benitez, Jr. appeals from a district court order granting a postconviction petition for a writ of habeas corpus filed on October 6, 2017.¹ First Judicial District Court, Carson City; James E. Wilson, Judge.

In his petition, Benitez claimed the Nevada Department of Corrections was not applying his statutory credits to his minimum sentence as required by NRS 209.4465(7)(b). The district court granted the petition and ordered NDOC to file a status report. NDOC reported that it applied Benitez' statutory credits to his minimum sentence as required by *Williams v. State Dep't of Corr.*, 133 Nev. ___, 402 P3d 1260 (2017), and Benitez' new parole eligibility date was December 22, 2034. The district court acknowledged NDOC's compliance in a written order.


On appeal, Benitez claims NDOC did not properly recalculate his sentence. He argues the statutory credits he earned for sentences he has been paroled from should have been applied to his remaining sentence

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

because he “served excessive time on each sentence before being considered for parole.” However, “[b]ecause the application of credits under NRS 209.4465(7)(b) only serves to make an offender *eligible* for parole earlier, no relief can be afforded where the offender has already . . . appeared before the parole board on the sentence.” *Williams v. State Dep’t of Corr.*, 133 Nev. ___, ___ n.7, 402 P.3d 1260, 1265 n.7 (2017) (emphasis added). We conclude Benitez received all of the relief he is entitled to and the district court did not err in resolving his habeas petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, A.C.J.
Douglas


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. James E. Wilson, District Judge
Jesus O. Benitez, Jr.
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk