

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KYLE DOUGLAS FITCH,
Appellant,
vs.
ISIDRO BACA, WARDEN,
Respondent.

No. 75325-COA

FILED

JAN 31 2019

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

ORDER OF AFFIRMANCE

Kyle Douglas Fitch appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on September 20, 2017.¹ First Judicial District Court, Carson City; James E. Wilson, Judge.

Fitch first claimed he is entitled to the application of statutory credits to his minimum sentence, pursuant to NRS 209.4465(7)(b), for his burglary conviction. The district court found Fitch had been convicted of a category B felony committed after the effective date of NRS 209.4465(8)(d), which precludes the application of credits to minimum terms of sentences for category B felonies. These findings are supported by the record. See NRS 205.060(2). We therefore conclude the district court did not err by denying this claim.

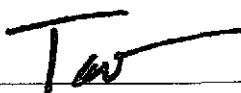
Fitch also claimed he is entitled to the application of statutory credits to his minimum sentence for his conviction of possession of stolen property, a category C felony. See NRS 205.275(2)(b). The district court


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).

found Fitch's claim was belied by an affidavit and a credit history report provided by the respondent. These documents do not belie Fitch's claim. However, Fitch has failed to demonstrate he is entitled to relief. The record before this court shows Fitch began to serve his sentence of 48 to 120 months for burglary on November 27, 2015. He would thus not begin to serve his sentence for possession of stolen property until November 27, 2019. Because he has not yet begun to serve that sentence, he is not yet entitled to the application of credits to the minimum term for that sentence. Accordingly, Fitch's claim as to the sentence for possession of stolen property is not yet ripe. *See Cote H. v. Eighth Judicial Dist. Court*, 124 Nev. 36, 38 n. 1, 175 P.3d 906, 907 n. 1 (2008) ("A case is ripe for review when the degree to which the harm alleged by the party seeking review is sufficiently concrete, rather than remote or hypothetical, and yields a justiciable controversy." (internal punctuation omitted) (internal quotation marks omitted)). We therefore conclude the district court did not err by denying this claim. *See Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) (holding a correct result will not be reversed simply because it is based on the wrong reason).² Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, A.C.J.
Douglas


_____, J.
Tao


_____, J.
Gibbons

²Should the Nevada Department of Corrections fail to apply Fitch's statutory credits to his minimum sentence once he begins to serve it, he may at that time challenge the computation of time he is serving.

cc: Hon. James E. Wilson, District Judge
Kyle Douglas Fitch
Attorney General/Carson City
Carson City Clerk