

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRET HENRY KELLER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 76126-COA

**FILED**

FEB 12 2019

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

*ORDER OF AFFIRMANCE*

Bret Henry Keller appeals from an order of the district court dismissing a postconviction petition for a writ of habeas corpus filed on May 4, 2018.<sup>1</sup> First Judicial District Court, Carson City; James E. Wilson, Judge.

In his petition, Keller claimed the Nevada Department of Corrections improperly declined to apply his statutory credits to his minimum term. Keller claims the district court erred by dismissing his petition based on the fact Keller failed to allege when he committed his crime. Keller claims he stated in his petition, and in his response to the district court's order seeking that information, that he informed the district court in his petition that he was arrested in 2011.<sup>2</sup> The district court concluded Keller failed to provide sufficient information for the court to make a decision and dismissed the petition.

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


<sup>2</sup>For the first time on appeal, Keller states he was arrested the same day he committed his crime.

We conclude the district court did not err by dismissing the petition. A petitioner must support the claims raised in his postconviction petition with specific facts that, if true, would entitle him to relief. See *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). Keller failed to allege when his criminal conduct occurred, which was necessary to determine which version of NRS 209.4465 or NRS 209.446 applied to his claim.<sup>3</sup> 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  
Bret Henry Keller  
Attorney General/Carson City  
Carson City Clerk

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<sup>3</sup>We note Keller also failed to allege the crime and category of crime he was convicted of.