


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RUBEN PAUL PEREZ,
Appellant,
vs.
THE STATE OF NEVADA; AND
WARDEN JO GENTRY,
Respondents.

No. 75832-COA

FILED

MAR 14 2019

ELIZABETH A. STYAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Ruben Paul Perez appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on October 5, 2017.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.

First, Perez claims the Nevada Department of Corrections (NDOC) did not apply the statutory credits he earned to his minimum sentence as required by NRS 209.4465(7)(b). We conclude the district court properly determined Perez was not entitled to relief on this claim. The Nevada Supreme Court recently held that credits earned under NRS 209.4465 apply to parole eligibility as provided in NRS 209.4465(7)(b) (1997) “if the sentencing statute *did not* specify a minimum sentence that had to be served before parole eligibility.” *Williams v. State Dep’t of Corr.*, 133 Nev. ___, ___, 402 P.3d 1260, 1262 (2017) (emphasis added). Perez was sentenced under a statute that specified a minimum term that must be served before parole eligibility. See NRS 200.030(4)(b)(2) (setting forth the sentence of “life with the possibility of parole, with parole eligibility beginning when a minimum of 20 years has been served”). Therefore, the


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

credits Perez earns under NRS 209.4465 *cannot* be applied to his parole eligibility.

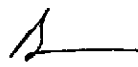
Second, Perez claims he was entitled to work credits because he was willing to work or attend educational programs. We conclude the district court properly determined he was not entitled to work credits for work he did not perform and he has not demonstrated he did not receive work credits for work he did perform. *See* NRS 209.4465(2); *Vickers v. Dzurenda*, 134 Nev. ___, ___, 433 P.3d 306, 308 (Ct. App. 2018).

Finally, Perez claims NDOC's failure to apply the statutory credits he has earned pursuant to NRS 209.4465(7)(b) based on the date he committed his crime violates his right to equal protection of the law. We conclude this claim is without merit because "the disparate application of statutory credits to parole eligibility based on when an offender committed an offense is rationally related to a legitimate governmental interest and thus does not offend the Equal Protection Clauses of the United States and Nevada Constitutions." *Vickers*, 134 Nev. at ___, 433 P.3d at 310.

Having concluded Perez is not entitled to relief, we
ORDER the judgment of the district court AFFIRMED.²


_____, J.
Tao


_____, J.
Gibbons


_____, J.
Bulla

²To the extent Perez also claimed that a conflict between NRS 209.4465 and NRS 213.120 created an ex post facto violation, we conclude his claim lacks merit. *See Weaver v. Graham*, 450 U.S. 24, 28 (1981) (explaining that an ex post facto violation occurs when the legislature enacts a law "which imposes a punishment for an act which was not punishable at the time it was committed; or imposes additional punishment to that then prescribed" (quotation marks omitted)).

cc: Hon. Linda Marie Bell, Chief Judge
Ruben Paul Perez
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk