

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID BEST,
Appellant,
vs.
RENEE BAKER, WARDEN,
Respondent.

No. 76223-COA

FILED

MAR 14 2019

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

ORDER OF AFFIRMANCE

David Best appeals from an order of the district court granting in part and denying in part a postconviction petition for a writ of habeas corpus.¹ Eleventh Judicial District Court, Pershing County; Jim C. Shirley, Judge.

In his March 12, 2018, petition, Best claimed he was entitled to the application of his statutory credits toward his parole eligibility dates. The district court found Best committed two counts of incest in 2007, prior to the effective date of NRS 209.4465(8), but he had already been paroled for his first offense. The district court concluded Best was entitled to the application of statutory credits for his second sentence, but his parole hearing for his first sentence rendered his challenge to the computation of time for that term moot. *See Williams v. State Dep't of Corr.*, 133 Nev. ___, ___, ___ n.7, 402 P.3d 1260, 1262, 1265 n.7 (2017).

Best argues the district court erred because it should have ordered the Nevada Department of Corrections to apply any remaining

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

statutory credits from his first term to his parole eligibility date for his second term. However, Best's claim lacks merit because "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 expired the sentence or appeared before the parole board on the sentence." *Id.* at ___ n.7, 402 P.3d at 1265 n.7 (internal citation omitted). As Best has already received parole for the first sentence, he is not entitled to any further relief due to application of NRS 209.4465(7)(b), and he is not entitled to have credits from his first sentence apply to his second sentence. Therefore, we conclude the district court did not err by denying this claim.

ORDER the judgment of the district court AFFIRMED.²



_____, J.
Tao



_____, J.
Gibbons



_____, J.
Bulla

cc: Hon. Jim C. Shirley, District Judge
David Robert Best
Attorney General/Carson City
Pershing County Clerk

²Best also argues the Seventh Judicial District Court improperly has not issued a decision regarding a motion to correct an illegal sentence he filed with that court. This issue was not within the scope of this appeal, see NRAP 3(c)(1), and therefore we decline to consider it.