

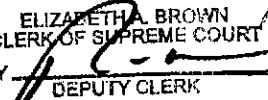
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JESSE MICHAEL TODD, II,
Appellant,
vs.
PERRY RUSSELL, WARDEN,
Respondent.

No. 75969-COA

FILED

APR 16 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Jesse Michael Todd, II, appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on May 9, 2018.¹ First Judicial District Court, Carson City; James E. Wilson, Judge.

Todd claimed the Nevada Department of Corrections improperly declined to apply his statutory credits toward his minimum sentence. Todd admits he is serving a sentence for driving under the influence causing death, a category B felony, *see* NRS 484C.430(1), committed in 2014.² Given these facts, we conclude the district court did not err by finding Todd was not entitled to have credits applied to his minimum sentence. *See* NRS 209.4465(8)(d). Further, because Todd was convicted pursuant to NRS 484C.430(1), he was also not entitled to have his

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

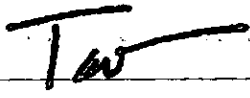
²The district court's order erroneously states Todd committed his crime in 2017.


statutory credits applied toward his minimum term pursuant to NRS 209.4465(8)(c).

To the extent Todd claimed the failure to apply the credits toward his minimum sentence was an ex post facto violation, this claim lacked merit. *See Weaver v. Graham*, 450 U.S. 24, 29 (1981).³ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. James E. Wilson, District Judge
Jesse Michael Todd, II
Attorney General/Carson City
Carson City Clerk

³On appeal, Todd claimed the failure to apply the credits toward his minimum term violated the Equal Protection Clause. Because this claim was not raised in his petition filed below, we decline to consider this claim on appeal. *McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999).