

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID CULLEN THIESSEN,
Appellant,
vs.
PERRY RUSSELL, WARDEN,
Respondent.

No. 75931-COA

FILED

APR 18 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

David Cullen Thiessen appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on April 5, 2018.¹ First Judicial District Court, Carson City; James E. Wilson, Judge.

Thiessen claimed he is entitled to the application of statutory credits to his minimum sentence pursuant to NRS 209.4465(7)(b). The district court found Thiessen's sentence was the result of a conviction for a category B felony committed after the July 1, 2007, effective date of NRS 209.4465(8)(d), *see* 2007 Nev. Stat., ch. 525, § 5, at 3177, § 22, at 3196, which precludes the application of credits to minimum terms of sentences for such 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.

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

Thiessen also claimed the application of NRS 209.4465(8) violates the Ex Post Facto Clause. Thiessen's claim lacked merit. A requirement for an Ex Post Facto Clause violation is that the statute applies to events occurring before it was enacted. *Weaver v. Graham*, 450 U.S. 24, 29 (1981). Because NRS 209.4465(8) was enacted before Thiessen committed his crime, its application does not violate the Ex Post Facto Clause. We therefore conclude the district court did not err by denying this claim.

To the extent Thiessen claimed the application of NRS 209.4465(8)(d) violates the Equal Protection Clause, this court has addressed a similar claim and found it to lack merit. *See Vickers v. Dzurenda*, 134 Nev. ___, ___, 433 P.3d 306, 308-10 (Ct. App. 2018). To the extent Thiessen claimed the Nevada Department of Corrections (NDOC) is applying statutory credits to his maximum sentence, nothing in NRS 209.4465(8) prohibits NDOC from doing so. Finally, to the extent Thiessen objected to language in his judgment of conviction, such a claim would have to be raised in a separate postconviction petition for a writ of habeas corpus filed with the clerk of the district court for the county in which he was convicted.² *See* NRS 34.724(2)(b); NRS 34.738(1), (3).


Thiessen argues on appeal that the district court failed to afford him an opportunity to reply to the State's Answer. Thiessen had no right to reply. *See* NRS 34.750(5) ("No further pleadings may be filed except as

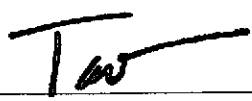
²We express no opinion as to whether Thiessen could meet the procedural requirements of NRS chapter 34.


ordered by the court.”). Further, he has not indicated what additional information such a reply would have contained, and we conclude the district court did not abuse its discretion by quickly resolving Thiessen’s petition.

For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. James E. Wilson, District Judge
David Cullen Thiessen
Attorney General/Carson City
Carson City Clerk