


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEPHEN BURNETT FERRARI,
Appellant,
vs.
PERRY RUSSELL, WARDEN, WSCC,
Respondent.

No. 76054-COA

FILED

APR 29 2019

ELIZABETH A. GROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE


Stephen Burnett Ferrari appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on March 23, 2018.¹ First Judicial District Court, Carson City; James E. Wilson, Judge.

Ferrari claimed he was entitled to the application of statutory credits to his minimum sentence pursuant to NRS 209.4465(7)(b). Ferrari's claim lacked merit. NRS 209.4465(7) begins, "[e]xcept as otherwise provided in subsection[] 8," and NRS 209.4465(8)(d) specifically excludes the application of statutory credits to the minimum terms of sentences for category B felonies. Ferrari's controlling sentence was for a category B felony committed after NRS 209.4465(8)'s effective date. See NRS 205.060(2). Accordingly, Ferrari is not entitled to the application of credits

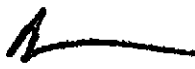
¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

to his minimum sentence. We therefore conclude the district court did not err by denying Ferrari's petition, and we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. James E. Wilson, District Judge
Stephen Burnett Ferrari
Attorney General/Carson City
Carson City Clerk

²Ferrari argues for the first time on appeal that NRS 209.4465 violates the Equal Protection Clause. Because this claim was not raised below, we need not consider it on appeal. *See Rimer v. State*, 131 Nev. 307, 328 n.3, 351 P.3d 697, 713 n.3 (2015). However, we note that a similar claim was rejected in *Vickers v. Dzurenda*, 134 Nev. ___, ___, 433 P.3d 306, 308-10 (Ct. App. 2018).