

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL MATTHEWS,
Appellant,
vs.
JAMES DZURENDA, NDOC
DIRECTOR,
Respondent.

No. 75836-COA

FILED

APR 29 2019

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

ORDER OF AFFIRMANCE

Michael Matthews appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.

In his October 17, 2017, petition, Matthews claimed the Nevada Department of Corrections (NDOC) improperly declined to apply his statutory credits toward his minimum term. The district court concluded Matthews was not entitled to relief because he was convicted of a category B felony, committed after the effective date of NRS 209.4465(8), and for those reasons, NDOC had properly applied Matthews' credits only toward his maximum term.² Given these circumstances, we conclude the district court properly denied the petition.

On appeal, Matthews argues NRS 209.4465 is impermissibly ambiguous and failure to apply credits to his minimum term violates the

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

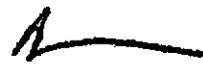
²The record reveals Matthews was convicted of mid-level trafficking in a controlled substance. See NRS 453.3385(1)(b).

Equal Protection Clause. However, Matthews did not raise these claims in the district court and we decline to consider them in the first instance on appeal. See *McNelson v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Linda Marie Bell, Chief Judge
Michael Matthews
Attorney General/Carson City
Eighth District Court Clerk