

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MAURY A. SINGER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 75935-COA

FILED

MAY 15 2019

FILED BY
CLERK OF THE COURT
BY: *[Signature]*
CHIEF CLERK

ORDER OF AFFIRMANCE

Maury A. Singer 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 Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.

Singer first argues the district court erred by concluding he was not entitled to application of statutory credits toward the parole eligibility date for all of his remaining sentences. We conclude Singer is not entitled to relief.

In his December 4, 2017, petition, Singer claimed the Nevada Department of Corrections (NDOC) was not properly applying his statutory credits toward his parole eligibility dates. The district court found Singer was convicted of multiple counts of burglary and sexual assault with the use of a deadly weapon, and he committed those offenses in 1987. The district court found Singer was entitled to the application of statutory credits toward his minimum parole eligibility date for his remaining

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


burglary term because he was sentenced pursuant to a statute that did not expressly mention parole eligibility. See NRS 209.446(6)(b); 1983 Nev. Stat., ch. 294, § 1, at 717-18 (former NRS 205.060). However, the district court found Singer was not entitled to the application of credits toward the minimum terms for his remaining sentences for sexual assault with the use of a deadly weapon because the relevant sentencing statutes specified minimum terms that must be served before a defendant becomes eligible for parole. See NRS 209.446(6)(b); 1981 Nev. State., ch. 780, § 1, at 2050 (former NRS 193.165); 1977 Nev. Stat., ch. 598, § 1, at 1626 (former NRS 200.366). Because the relevant statutes specified minimum sentences that Singer must serve prior to parole eligibility for his sentences for sexual assault with the use of a deadly weapon, the district court properly found NDOC may not apply statutory credits to reduce his minimum terms for those sentences. See NRS 209.446(6)(b); *Williams v. State Dep't of Corr.*, 133 Nev., Adv. Op. 75 * 4-5, 402 P.3d 1260, 1262 (2017).


Second, Singer argued failure to apply his statutory credits toward his parole eligibility dates violates the Ex Post Facto Clause. However, Singer committed his crimes after the relevant statute, NRS 209.446, became effective in 1985, see 1985 Nev. Stat., ch. 615, § 1, at 1924-25, and, therefore, his claim was without merit. See *Weaver v. Graham*, 450 U.S. 24, 28-29 (1981). Therefore, the district court did not err by denying relief.²


²To the extent Singer argued he was entitled to additional credits for sentences that he has already expired, his claim lacked merit because “no relief can be afforded where the offender has already expired the sentence or appeared before the parole board on the sentence.” *Williams*, 133 Nev., Adv. Op. 75 * 10 n.7, 402 P.3d at 1265 n.7 (internal citation omitted).

Third, Singer argues the district court erred by denying the petition without conducting an evidentiary hearing. The district court concluded an evidentiary hearing was not necessary given the nature of Singer's claims and the information contained within the record. The record before this court reveals the district court's conclusions in this regard were proper. *See Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Linda Marie Bell, Chief Judge
Maury A. Singer
Attorney General/Las Vegas
Eighth District Court Clerk

³Singer also appeared to claim prison officials violated his rights against cruel and unusual punishment by being deliberately indifferent to the proper application of his statutory credits. Singer failed to demonstrate this claim was meritorious. *See Blume v. State*, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996); *see also Farmer v. Brennan*, 511 U.S. 825, 834 (1994) (explaining the test for when prison officials violate the Eighth Amendment prohibition against cruel and unusual punishment).