

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

EVERETT HUNTER,
Appellant,
vs.
JAMES DZURENDA, DIRECTOR
NDOC; ISIDRO BACA, WARDEN;
DWAYNE DEAL, OMD SECRETARY;
OFFENDER MANAGEMENT
DIVISION; THE STATE OF NEVADA;
AND THE HONORABLE BRIAN
SANDOVAL, GOVERNOR,
Respondents.

No. 76560-COA

FILED

MAY 21 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Everett Hunter appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus.¹ First Judicial District Court, Carson City; William A. Maddox, Senior Judge.

In his May 9, 2018, petition, Hunter claimed the Nevada Department of Corrections (NDOC) improperly declined to apply his statutory credits toward his parole eligibility date. The district court found Hunter was serving terms for category B felonies committed after the effective date of NRS 209.4465(8).² For those reasons, the district court

¹This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).

²The record demonstrated Hunter was serving terms for two counts of burglary and he committed those offenses in 2015. See NRS 205.060(2).


found NDOC had properly only applied Hunter's credits toward his maximum terms. The record supports these factual findings.³


The district court further found Hunter's petition contained claims which were not warranted by existing law or by a reasonable argument for a change in existing law or a change in interpretation of existing law. In addition, the district court found Hunter's petition was "frivolous and wholly without merit" and referred him to the Director of the Department of Corrections for the forfeiture of statutory credits.

While recognizing that there may be circumstances where it would be inappropriate to refer a prison inmate for the forfeiture of credits, we conclude the district court did not clearly abuse its discretion in this instance. *See* NRS 209.4465(8); NRS 209.451(1)(d)(2); *see also Hosier v. State*, 121 Nev. 409, 412, 117 P.3d 212, 214 (2005) (discussing similar circumstances in which the Nevada Supreme Court might refer an inmate under NRS 209.451(1)(d) when he or she files a frivolous original writ petition). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

³Howard also appeared to claim the application of NRS 209.4465(8) violates the Ex Post Facto Clause. However, because Howard committed his offenses after NRS 209.4465(8) became effective in 2007, his claim was without merit. *See Weaver v. Graham*, 450 U.S. 24, 28-29 (1981).

cc: Hon. William A. Maddox, Senior Judge
Everett Hunter
Attorney General/Carson City
Carson City Clerk