

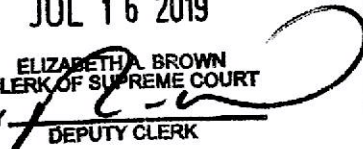
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CLYDE LEWIS,
Appellant,
vs.
THE STATE OF NEVADA; AND JO
GENTRY, WARDEN,
Respondents.

No. 77280-COA

FILED

JUL 16 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Clyde Lewis appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus that was filed on February 15, 2018. Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.

Lewis argues the district court erred by denying his claim that he is entitled to have credit applied to his minimum terms. Lewis was convicted of burglary, robbery with the use of a deadly weapon, and first-degree murder with the use of a deadly weapon for crimes committed in 1993. The district court determined, to the extent Lewis was entitled to any credit for his burglary and robbery sentences, no relief could be granted because he has expired or been institutionally paroled from those sentences. *See Johnson v. Dir., Nev. Dep't Prisons*, 105 Nev. 314, 316, 774 P.2d 1047, 1049 (1989) (stating the expiration of a defendant's sentence rendered any question concerning computation of the sentence moot); *Niergarth v. Warden*, 105 Nev. 26, 768 P.2d 882 (1989) (holding no statutory authority or case law permits a retroactive grant of parole). The district court found Lewis is currently serving his sentences for first-degree murder with the use of a deadly weapon and, because he was sentenced to equal and

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consecutive terms of life with the possibility of parole, he is required to serve a minimum term of 10 years on each sentence before parole eligibility. See 1991 Nev. Stat., ch. 403, § 6, at 1059 (former NRS 193.165(1)); 1989 Nev. Stat., ch. 631, § 1, at 1451 (former NRS 200.030(4)(b)). The district court determined that, because Lewis' sentencing statute required him to serve a minimum term before parole eligibility on his current sentences, pursuant to NRS 209.446(6)(b), he is not entitled to have credit applied to his minimum terms for those sentences. We conclude the district court correctly determined Lewis is not entitled to relief.¹

Lewis also claims the district court erred by denying his claim that he should be awarded credit for time he was willing to work but was not assigned to work duty. The district court denied this claim, finding Lewis does not have a liberty interest in earning work and study credits and he is only entitled to credit for work actually performed. We conclude the district court did not err by denying his claim. See *Vickers v. Dzurenda*, 134 Nev., Adv. Op. 91, *2-3, 433 P.3d 306, 308 (Ct. App. 2018) (rejecting similar claim).


Lewis also appears to assert the district court erred by denying his claim that he is entitled to earn 20 days of credit per month instead of 10 days of credit per month. We conclude the district court did not err by denying this claim. See NRS 209.446(1) (providing for a deduction of 10


¹To the extent Lewis also asserted he never received all of the credit he should have on his minimum terms for burglary and robbery with the use of a deadly weapon and argued this credit should be applied to his minimum term for his current sentences, we conclude, for the same reasons discussed above, he was not entitled to relief.

days per month for offenders sentenced for crimes committed on or before July 1, 1985, but before July 1, 1997). Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Linda Marie Bell, Chief Judge
Clyde Lewis
Attorney General/Las Vegas
Eighth District Court Clerk

²To the extent Lewis asserted below that the denial of credit violates his due process and equal protection rights, because his arguments regarding his entitlement to credit were flawed, he necessarily failed to demonstrate a due process or equal protection violation.