

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GUSTAVO ARIANDA CUMPLIDO,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN,
Respondent.

No. 77343-COA

FILED

JUL 30 2019

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

ORDER OF AFFIRMANCE

Gustavo Arianda Cumplido appeals from a district court order denying the postconviction petition for a writ of habeas corpus filed on April 12, 2018.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.

Cumplido claims the district court erred by denying his claim that the Nevada Department of Corrections is improperly refusing to apply statutory credit to his minimum term. The district court found Cumplido was convicted of two counts of second-degree murder with the use of a deadly weapon, attempted murder with the use of a deadly weapon, and two counts of discharging a firearm out of a motor vehicle for acts committed in February 1999. The district court further found Cumplido is currently serving his deadly weapon enhancement for second-degree murder—a term of 25 years with eligibility for parole after a minimum term of 10 years has been served. See 1995 Nev. Stat., ch. 455 § 1, at 1431 (former NRS 193.165(1)) (prescribing a sentence equal and consecutive to the sentence

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

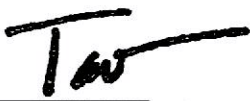
for the primary offense); NRS 200.030(5)(b) (prescribing a sentence of 25 years with the possibility of parole after a minimum of 10 years has been served for second-degree murder). The district court concluded that because Cumplido is serving a sentence that requires him to serve a mandatory minimum term before becoming eligible for parole, NRS 209.4465(7)(b) precludes application of his statutory credits to his minimum term. The district court's findings are supported by the record, and we conclude the district court did not err by determining Cumplido is not entitled to have credit applied to his current sentence.

The district court also found Cumplido has not yet started serving his sentences for discharging a firearm out of a motor vehicle and, therefore, his challenge to those sentences is not yet ripe. The district court's finding is supported by the record, and we conclude the district court correctly determined Cumplido's challenge to his sentence for discharging a firearm out of a motor vehicle is not ripe for review.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Linda Marie Bell, Chief Judge
Gustavo Arianda Cumplido
Attorney General/Las Vegas
Eighth District Court Clerk