

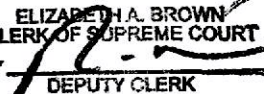
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARCIAL GOMEZ,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN,
Respondent.

No. 77590-COA

FILED

JUL 30 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Marcial Gomez appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on March 8, 2018.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.

Gomez asserts the district court erred by denying his claim that the Nevada Department of Corrections (NDOC) was improperly declining to apply his statutory credits toward his minimum term. The district court found Gomez had been convicted of trafficking in a controlled substance, a category B felony, *see* NRS 453.3385(1)(b), committed in 2016, and therefore, was not entitled to have his statutory credits applied to his minimum term.² Substantial evidence supports the district court's finding. *See* NRS 209.4465(8)(d). Further, Gomez was not entitled to have credits applied to his minimum term for his trafficking conviction because he was

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


²The district court correctly found NDOC was properly applying his credits toward his minimum term of his sentence for conspiracy to violate the Controlled Substances Act.

sentenced pursuant to a statute that required a minimum term be served before he was eligible for parole. See NRS 209.4465(7)(b); NRS 453.3405(1). Therefore, we conclude the district court did not err by denying Gomez' petition.

To the extent Gomez claims NDOC's failure to apply his credits toward his minimum term violated the Equal Protection clause or that NRS 209.4465 is ambiguous, these claims were not raised below, and we decline to consider them for the first time on appeal. See *McNelton 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
Marcial Gomez
Attorney General/Las Vegas
Eighth District Court Clerk