

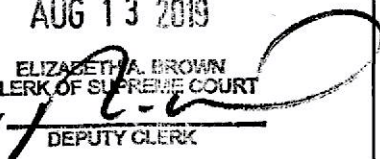
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DEXTER OWENS,
Appellant,
vs.
ISIDRO BACA, WARDEN; JAMES
DZURENDA, DIRECTOR, NEVADA
DEPARTMENT OF CORRECTIONS;
AND THE STATE OF NEVADA,
Respondents.

No. 78017-COA

FILED

AUG 13 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Dexter Owens 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; James E. Wilson, Judge.

In his November 13, 2018, petition, Owens first claimed the Nevada Department of Corrections (NDOC) was not properly applying his statutory credits toward his sentence. The district court found Owens was convicted of second-degree murder with the use of a deadly weapon, and Owens committed the offense in 1999. The district court also found Owens was sentenced to serve a term of life with the possibility of parole in ten years for the primary offense and an equal and consecutive term of life with the possibility of parole in ten years for the deadly-weapon enhancement. In addition, the district court found NDOC had properly applied credits toward Owens' maximum terms and Owens is currently serving the term

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

for the deadly-weapon enhancement because he has already received parole for his primary-offense sentence. As Owens has already received parole for the primary-offense sentence, he was not entitled to any additional credits for that term because “no relief can be afforded where the offender has already expired the sentence or appeared before the parole board on the sentence.” *Williams v. State Dep’t of Corr.*, 133 Nev. 594, 600 n.7, 402 P.3d 1260, 1265 n.7 (internal citation omitted).

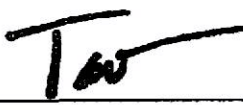
Moreover, Owens’ sentence for the conviction of second-degree murder with the use of a deadly weapon stemmed from sentencing statutes that specified minimum terms that must be served before a defendant becomes eligible for parole. See 1995 Nev. Stat., ch. 455, § 1, at 1431 (former version of NRS 193.165); 1999 Nev. Stat, ch. 319, § 3, at 1335-36 (former version of NRS 200.030); see also *Perez v. Warden*, 135 Nev., Adv. Op. 24, *3, ___ P.3d ___, ___ (2019) (stating that the statute controlling the deadly-weapon-enhancement sentence at the time Owens committed his offense “incorporated the sentence prescribed by statute for the primary offense”). Because the relevant statutes specified minimum sentences that Owens must serve prior to parole eligibility for his sentence for second-degree murder with the use of a deadly weapon, the district court properly found NDOC may not apply statutory credits to reduce Owens’ remaining minimum term. See NRS 209.4465(7)(b); *Williams*, 133 Nev. at 596, 402 P.3d at 1262.

Second, Owens contended NDOC should alter his deadly-weapon-enhancement sentence due to the 2007 amendment to NRS 193.165. However, Owens’ claim lacked merit because the Nevada Supreme Court has already concluded that the 2007 amendment to NRS 193.165 does not apply retroactively, but rather applies based on the date the offense was

committed. *See State v. Dist. Ct. (Pullin)*, 124 Nev. 564, 571, 188 P.3d 1079, 1084 (2008). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. James E. Wilson, District Judge
Dexter Owens
Attorney General/Carson City
Carson City Clerk