

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LUKE MARTIN SPREADBOROUGH,
Appellant,
vs.
THE STATE OF NEVADA; THE STATE
OF NEVADA DEPARTMENT OF
CORRECTIONS; AND WARDEN JO
GENTRY SDCC,
Respondents.

No. 77922-COA

FILED

AUG 14 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

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

Spreadborough 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 Spreadborough had been convicted of category B felonies² for crimes committed in 2014 and, therefore, was not entitled to have his statutory credits applied to his minimum term. Substantial

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

²Spreadborough was convicted of eluding a police officer, driving under the influence, felon in possession of a firearm, and discharging a weapon out of a motor vehicle. See NRS 202.287(1)(b), NRS 202.360(1), NRS 484B.550(3), NRS 484C.410(1)(a).

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evidence supports the district court's findings, and we conclude the district court did not err by denying this claim. See NRS 209.4465(8)(d).

Spreadborough also claims the district court erred by denying his claim that NDOC's failure to apply his statutory credits to his minimum term violated the Equal Protection Clause. We conclude the district court did not err by denying this claim. See *Vickers v. Dzurenda*, 134 Nev. Adv. Op. 91, *8, 433 P.3d 306, 310 (Ct. App. 2018) (rejecting similar claim).

Finally, to the extent Spreadborough claims that NDOC's failure apply his statutory credits to his minimum term was an ex post facto violation, this claim was not raised below, and we decline to consider it for the first time on appeal. See *McNelson 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
Luke Martin Spreadborough
Attorney General/Las Vegas
Eighth District Court Clerk