

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOHN REDMAN,
Appellant,
vs.
ISIDRO BACA, WARDEN NNCC; AND
THE STATE OF NEVADA,
Respondents.

No. 77120-COA

FILED

OCT 08 2019

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

ORDER OF AFFIRMANCE

John Redman appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on May 2, 2018. First Judicial District Court, Carson City; James E. Wilson, Judge.

Redman claims in his informal brief that the district court erred by construing his petition as a request for AB 510 credits because all he asked for was to have “his work day credits applied to his sentence.”¹ He also appears to claim the district court erred by referring him to the Director of the Department of Corrections for the forfeiture of credits.

The district court made the following findings: Redman had appeared before the Nevada Board of Parole Commissioners and therefore his claim that the Nevada Department of Corrections (NDOC) was not properly applying statutory credits to his minimum sentence was moot. The State provided evidence that demonstrated Redman’s “statutory, *work*, program and/or meritorious time credits” had been properly applied to his maximum sentence since the date of his incarceration. Redman did not

¹We note that Redman raised the issue of work credits for the first time in the response he filed to the State’s answering brief and that the district court appears to have considered his response in its order denying the petition.

provide any evidence that contradicted the calculations in the State's evidence. And Redman's petition was frivolous because his claim lacked merit based on the law that existed when he filed the petition and he did not present a reasonable argument for a change in the existing law or its interpretation.

We conclude the district court did not err by construing Redman's petition as a request to have statutory credits applied to his minimum and maximum prison terms because Redman claimed in his petition that NDOC withheld the statutory time credits he had earned and "failed to apply them to the *minimum and maximum* term of [his] sentence as required by law." (Emphasis added.) We also conclude the district court did not clearly abuse its discretion by recommending the forfeiture of statutory credits because Redman's minimum-term claim plainly lacked merit under NRS 209.4465(8). See NRS 209.451(1)(d)(2). Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

²To the extent Redman now claims he is owed 85 days of credit for work he performed between September 2013 and August 2014, 20 days of credit for work he performed between October 2015 and December 2015, and 38 days of credit for work he performed between March 2016 and August 2017, he did not raise this claim in the court below and we decline to consider it for the first time on appeal. See *Davis v. State*, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991), *overruled on other grounds by Means v. State*, 120 Nev. 1001, 1012-13, 103 P.3d 25, 33 (2004).

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