

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

OSCAR PEREZ-MARQUEZ,
Appellant,

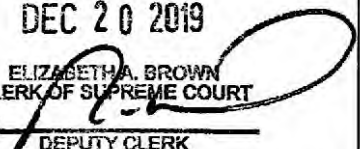
vs.

THE STATE OF NEVADA
DEPARTMENT OF CORRECTIONS;
WARDEN JO GENTRY; SOUTHERN
DESERT CORRECTIONAL CENTER;
JAMES DZURENDA, N.D.O.C.
DIRECTOR AND WARDEN; T.
THOMAS; AND SAGUARO
CORRECTIONAL CENTER,
Respondents.

No. 78063-COA

FILED

DEC 20 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Oscar Perez-Marquez appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on July 18, 2018. Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.

First, Perez-Marquez claims the district court erred by concluding the Nevada Supreme Court's decision in *Williams v. State Department of Corrections*, 133 Nev. 594, 402 P.3d 1260 (2017), did not apply to his sentence for second-degree murder.

The district court found that Perez-Marquez was not entitled to have credits applied to his parole eligibility date because he was sentenced pursuant to a statute which specified a minimum sentence that must be served before a person becomes eligible for parole. The district court further

found that Perez-Marquez' claim was moot because he had already appeared before the Nevada Board of Parole Commissioners on his second-degree-murder sentence.

The district court's findings are supported by the record and we conclude the district court properly determined that Perez-Marquez was not entitled to relief on this credits claim. See NRS 200.030(5)(a) (providing that a person convicted of second-degree murder shall be punished by imprisonment for "life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served"); *Williams*, 133 Nev. at 600 n.7, 402 P.3d at 1265 n.7 ("Because the application of credits under NRS 209.4465(7)(b) only serves to make an offender eligible for parole earlier, no relief can be afforded where the offender has already . . . appeared before the parole board on the sentence.").

Second, Perez-Marquez claims the district court erred by concluding his claim, that the Nevada Department of Corrections was not properly applying credits to his aggregated sentences for trafficking in a controlled substance and bribing or intimidating a witness to influence testimony, was not ripe for review.

"A case is ripe for review when the degree to which the harm alleged by the party seeking review is sufficiently concrete, rather than remote or hypothetical, and yields a justiciable controversy." *Cote H. v. Eighth Judicial Dist. Court*, 124 Nev. 36, 38 n.1, 175 P.3d 906, 907 n.1 (2008) (internal quotation marks and brackets omitted).


We conclude the district court properly determined that Perez-Marquez' claim was not ripe for review because he had not begun serving

his aggregated sentences and therefore any allegation of harm would only be hypothetical at best.

Having concluded that the district court did not err by denying Perez-Marquez' postconviction habeas petition, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Linda Marie Bell, Chief Judge
Oscar Perez-Marquez
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk