

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SERGIO AQUINO,  
Appellant,  
vs.  
WILLIAM A. GITTERE, WARDEN;  
JAMES DZURENDA, DIRECTOR; THE  
STATE OF NEVADA DEPARTMENT  
OF CORRECTIONS; AND THE STATE  
OF NEVADA,  
Respondents.

No. 78519-COA

**FILED**

**JAN 30 2020**

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

*ORDER OF AFFIRMANCE*


Sergio Aquino appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on March 5, 2019. Seventh Judicial District Court, White Pine County; Steve L. Dobrescu, Judge.

Below, Aquino filed a petition for a writ of mandamus in which he alleged the Nevada Department of Corrections (NDOC) is not applying statutory credit he earns to his minimum term. Aquino sought an order directing NDOC to comply with the provisions of NRS 209.4465(7) and apply the statutory credit he earns to his minimum term. Based on the nature of the relief sought, the district court properly construed Aquino's petition as a postconviction petition for a writ of habeas corpus. See NRS 34.724(2)(c) (providing a petition for a writ of habeas corpus "[i]s the only remedy available to an incarcerated person to challenge the computation of time that the person has served pursuant to a judgment of conviction"). In his petition, Aquino stated that he was convicted in 2012 of a category B felony for an offense that occurred after July 1, 2007. Therefore, the district

court found that NRS 209.4465(8)(d) prohibited application of statutory credit to Aquino's minimum term. We conclude the district court did not err by denying this claim, and we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Steve L. Dobrescu, District Judge  
Sergio Aquino  
Attorney General/Carson City  
White Pine County Clerk