

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

PEDRO ESTEBAN,
Appellant,
vs.
RENEE BAKER, WARDEN,
Respondent.

No. 78441-COA

FILED

JAN 30 2020

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

ORDER OF AFFIRMANCE

Pedro Esteban appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on January 3, 2019. Eleventh Judicial District Court, Pershing County; Jim C. Shirley, Judge.

In his petition below, Esteban argued he was entitled to have statutory credit applied to his minimum terms. The district court found that Esteban is currently serving a prison term of life with the possibility of parole after a minimum of 20 years has been served for a conviction for sexual assault of a child under fourteen years of age. *See* 1999 Nev. Stat., ch. 105, § 23, at 432. The district court concluded that NRS 209.4465(7)(b) prohibits application of statutory credit to Esteban's minimum term because he is serving a sentence that requires him to serve a mandatory minimum term before being eligible for parole.¹ *See Williams v. State, Dep't of Corr.*, 133 Nev. 594, 599, 402 P.3d 1260, 1264 (2017). The record supports

¹The district court also found that to the extent Esteban was attempting to raise the claim in the context of his sentences for his other convictions, the claim was not ripe for review because he has not yet started serving those sentences. We conclude the district court did not err in this regard.

the district court's findings, and we conclude the district court did not err by denying this claim.

Esteban also claimed that the Nevada Department of Corrections was violating the Ex Post Facto Clause by applying NRS 209.4465(8) to him to deny the application of statutory credit to his minimum term. The district court found that because NRS 209.4465(8) is not being applied to Esteban there is no ex post facto violation. We conclude the district court did not err by denying this claim.

Finally, Esteban claimed denying him the application of statutory credit to his minimum term violates his right to equal protection. The district court denied this claim because a prisoner is not a member of a suspect class and the award of statutory credits does not impact a fundamental right. We conclude the district court did not err by denying this claim. *See Vickers v. Dzurenda*, 134 Nev. 747, 748-51, 433 P.3d 306, 308-10 (Ct. App. 2018). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Jim C. Shirley, District Judge
Pedro Esteban
Attorney General/Carson City
Pershing County Clerk