

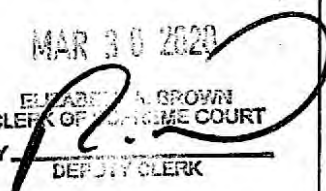
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RICHARD CARY IDEN,
Appellant,
vs.
WILLIAM A. GITTERE, WARDEN,
Respondent.

No. 78969-COA

FILED

MAR 30 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Richard Cary Iden appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on February 14, 2019.¹ Seventh Judicial District Court, White Pine County; Steve L. Dobrescu, Judge.

Iden claimed he was entitled to the application of statutory credits to his minimum sentence pursuant to NRS 209.4465(7)(b) and *Williams v. State Department of Corrections*, 133 Nev. 594, 402 P.3d 1260 (2017). The district court found Iden was sentenced for a category B felony for a crime he committed after 2007 and was thus not entitled to the application of credits to his minimum sentence. See NRS 209.4465(8)(d). Copies of Iden's charging document and judgment of conviction are not included in the record on appeal to support the district court's findings. We nevertheless affirm.


¹The petition was refiled in the Seventh Judicial District Court on May 15, 2019.

Whether Iden is entitled to the application of credits to his minimum sentence depends on when he committed his crime. *See Williams*, 133 Nev. at 595 & n.1, 402 P.3d at 1261 & n.1 (noting its holding that credits should be applied to certain minimum sentences applies only to crimes committed between the 1997 enactment and 2007 amendment of NRS 209.4465); *see also* NRS 209.4465(8) (excluding certain offenders from eligibility for application of statutory credits to their minimum sentences, including offenders convicted of category B felonies). Iden claimed to have been convicted of burglary, a category B felony, *see* NRS 205.060(2), but he did not state when he committed it. He thus failed to support his claim with necessary specific factual allegations. *Cf. Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984) (holding a petitioner is not entitled to an evidentiary hearing where his claims are unsupported by specific factual allegations that, if true, would have entitled him to relief). We therefore conclude the district court did not err by denying this claim. *See Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) (holding a correct result will not be reversed simply because it is based on the wrong reason).

Iden also claimed the failure to apply statutory credits to his minimum sentence violates the Ex Post Facto Clause. A requirement for an Ex Post Facto Clause violation is that the statute applies to events occurring before it was enacted. *Weaver v. Graham*, 450 U.S. 24, 29 (1981). Because Iden failed to allege when he committed his crime, he failed to allege specific facts that would demonstrate an Ex Post Facto Clause violation. *Cf. Hargrove*, 100 Nev. at 502-03, 686 P.2d at 225. We therefore

conclude the district court did not err by denying this claim. Accordingly,
we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Steve L. Dobrescu, District Judge
Richard Cary Iden
Attorney General/Carson City
White Pine County Clerk