

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MAURICE JOHNSON,
Appellant,
vs.
WILLIAM A. GITTERE, WARDEN,
NEVADA DEPARTMENT OF
CORRECTIONS,
Respondent.

No. 79677-COA

FILED

APR 28 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT

BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Maurice Johnson appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on July 24, 2019. Seventh Judicial District Court, White Pine County; Steve L. Dobrescu, Judge.

Johnson claimed he is entitled to the application of statutory credits to his minimum sentences pursuant to NRS 209.4465(7)(b) and that the application of NRS 209.4465(8) to preclude application of the credits is a violation of the Ex Post Facto Clause. The district court found Johnson was sentenced for category B felonies he committed after 2007 and, accordingly, he was not entitled to the application of credits to his minimum sentence. *See* NRS 209.4465(8)(d). The record before this court contains no information from which to discern the date(s) on which Johnson committed


his crimes. We nevertheless affirm because the district court reached the correct result. See *Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970).

Whether Johnson is entitled to the application of credits to his minimum sentence depends on when he committed his crimes. See *Williams v. State Dep't of Corr.*, 133 Nev. 594, 595 n.1, 402 P.3d 1260, 1261 n.1 (2017). Similarly, whether the application of NRS 209.4465(8) implicates the Ex Post Facto Clause depends on whether the statute is being applied to inmates who committed their crimes before the effective date of NRS 209.4465(8). See *Weaver v. Graham*, 450 U.S. 24, 29 (1981).

Johnson alleged he was convicted of assault with the use of a deadly weapon and felon in possession of a firearm, both of which are category B felonies. See NRS 200.471(2)(b); NRS 202.360(1). But he did not indicate when he committed the offenses. He thus failed to support his claim with necessary specific factual allegations that would entitle him to relief. 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 Johnson's petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

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

¹To the extent Johnson's informal brief raises arguments about the application of A.B. 510 and his need "to preserve equal due process of law," these constitute new arguments not raised below, and we decline to consider them on appeal in the first instance. *See McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999).