

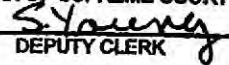
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOHN DAVID PAMPLIN,  
Appellant,  
vs.  
WARDEN AT WARM SPRINGS, PERRY  
RUSSELL,  
Respondent.

No. 80516-COA

**FILED**

SEP 11 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY    
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

John David Pamplin appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. First Judicial District Court, Carson City; James E. Wilson, Judge.

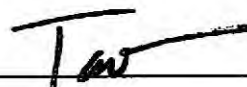
In his January 7, 2019, petition and January 15, 2020, supplemental petition, Pamplin first claimed the Nevada Department of Corrections (NDOC) erroneously failed to apply his statutory credits toward his minimum parole eligibility dates for crimes committed in 2002. The district court concluded Pamplin was not entitled to relief because he is currently serving a sentence for first-degree murder and was sentenced for that conviction pursuant to a statute that specifies a minimum sentence that must be served before a defendant becomes eligible for parole. See NRS 200.030(4)(b)(2). Because the statute specified a minimum sentence that must be served before Pamplin becomes eligible for parole, NDOC may not apply statutory credits to reduce his minimum parole eligibility date. See NRS 209.4465(7)(b); *Williams v. State Dep't of Corr.*, 133 Nev. 594, 596, 402 P.3d 1260, 1262 (2017). Based on the record concerning Pamplin's statutory credits, the district court found NDOC appropriately calculated his time served and properly applied Pamplin's credits only toward his maximum

term for his sentence for first-degree murder.<sup>1</sup> For those reasons, the district court denied the petition. The record supports the district court's decision and we conclude the district court did not err by denying this claim.

Second, Pamplin claimed the application of NRS 209.4465(7)(b) violates the Ex Post Facto Clause. Pamplin's claim lacked merit. 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 NRS 209.4465(7)(b) was enacted before Pamplin committed his crime, its application does not violate the Ex Post Facto Clause. Therefore, the district court properly found Pamplin was not entitled to relief. Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

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

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

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

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<sup>1</sup>The district court also found that Pamplin was convicted of two counts of child abuse resulting in substantial mental harm and he will be entitled to application of credits toward the minimum terms of those sentences when he begins to serve them.

<sup>2</sup>On appeal, Pamplin argues the preliminary hearing in his criminal case was not conducted in a proper manner. However, Pamplin did not raise this claim in his petition and we decline to consider it in the first instance on appeal. See *McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999).

cc: Hon. James E. Wilson, District Judge  
John David Pamplin  
Attorney General/Carson City  
Carson City Clerk