

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

EFRAIN NAJAS URIBE,
Appellant,
vs.
JERRY HOWELL, WARDEN,
Respondent.

No. 80795-COA

FILED

SEP 11 2020

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

ORDER OF AFFIRMANCE

Efrain Najas Uribe appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on June 10, 2019. Eighth Judicial District Court, Clark County; Joseph Hardy, Jr., Judge.

Uribe claimed he is entitled to the application of statutory credits to his minimum and maximum sentence pursuant to NRS 209.4465(7)(b). The district court found Uribe's current sentence was the result of a conviction for trafficking in a controlled substance committed after the effective date of NRS 209.4465(8). Further, the district court found that the Nevada Department of Corrections is properly applying Uribe's credits toward his maximum sentence. These findings are supported by the record. Because Uribe was convicted of a category B felony, *see* NRS 453.3385(1)(b), committed after the effective date of NRS 209.4465(8)(d), he was precluded from the application of credits to his minimum sentence. We therefore conclude the district court did not err by denying this claim.

Next, Uribe also claimed that the application of NRS 209.4465(8) violated the equal protection clause. This court has addressed a similar claim and found it to lack merit. *See Vickers v. Dzurenda*, 134

Nev. 747, 748-51, 433 P.3d 306, 308-10 (Ct. App. 2018). We therefore conclude the district court did not err by denying this claim.

Next, Uribe claimed the application of NRS 209.4465(8) 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 NRS 209.4465(8) was enacted before Uribe committed his crime, its application does not violate the Ex Post Facto Clause. We therefore conclude the district court did not err by denying this claim.

Finally, Uribe claimed he was entitled to work and meritorious credits because he has made every possible effort to participate in educational, rehabilitation, and work programs. We conclude the district court properly determined Uribe was not entitled to work, rehabilitation, and meritorious credits where he did not actually work or participate in programs of rehabilitation or programs to earn meritorious credits. See NRS 209.4465(2); *Vickers*, 134 Nev. at 748, 433 P.3d at 308.

Having concluded Uribe is not entitled to relief, we
ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Joseph Hardy, Jr., District Judge
Efrain Najas Uribe
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk