

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RAUL GARCIA,
Appellant,
vs.
RENEE BAKER, WARDEN,
Respondent.

No. 81507-COA

FILED

APR 23 2021

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

ORDER OF AFFIRMANCE

Raul Garcia appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus challenging the computation of time served. Eleventh Judicial District Court, Pershing County; Jim C. Shirley, Judge.

In his petition, filed on November 8, 2018, Garcia claimed he is entitled to the application of statutory credits to his minimum sentences pursuant to NRS 209.4465(7)(b). Garcia was convicted of sexual assault of a minor under 14 years of age and lewdness with a minor under 14 years of age for crimes committed in August 2000.

At the time Garcia committed his crimes, NRS 209.4465(7)(b) allowed for the application of statutory credits to minimum sentences only where the offender was not "sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole." 1999 Nev. Stat., ch. 552, § 8, at 2882, ch. 552, § 14, at 2883. Garcia was sentenced pursuant to statutes that provided for "eligibility for parole beginning when a minimum of 20 years has been served," 1999 Nev. Stat., ch. 105, § 23, at 432 (NRS 200.366(3)(c)), and "eligibility for parole beginning when a minimum of 10 years has been served," 1999 Nev., ch. 105, § 49, at 471-72 (NRS 201.230). Accordingly, Garcia was not entitled to

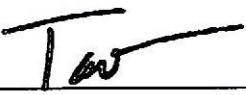
the application of statutory credits to his minimum sentences. *See Williams v. State Dep't of Corr.*, 133 Nev. 594, 597-99, 402 P.3d 1260, 1263-64 (2017).


Garcia also claimed the application of NRS 209.4465(8) to deprive him of the application of credits to his minimum sentences violates the Ex Post Facto Clause. As discussed above, Garcia was not entitled to the application of credits to his minimum sentences. Accordingly, any application of NRS 209.4465(8) to bar application of credits to Garcia's minimum sentences did not work to his disadvantage and, thus, did not violate the Ex Post Facto Clause. *See Weaver v. Graham*, 450 U.S. 24, 29 (1981) (providing that, to be an ex post facto law, the law must both be retrospective and disadvantage the offender). We therefore conclude the district court did not err by denying this claim.

To the extent Garcia claimed his equal protection rights were violated, 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). Finally, to the extent Garcia claimed his due process rights were violated, he failed to allege a protected liberty interest in parole. *See Anselmo v. Bisbee*, 133 Nev. 317, 320, 396 P.3d 848, 850-51 (2017) (stating offenders have no due process right in the grant of parole). We therefore conclude Garcia is not entitled to relief, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Jim C. Shirley, District Judge
Raul Garcia
Attorney General/Carson City
Clerk of the Court/Court Administrator