

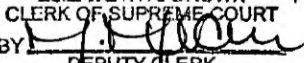
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAMES LAMONT MOORE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 86903-COA

FILED

FEB 07 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

James Lamont Moore appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus and a petition for writ of mandamus/prohibition, both filed on December 14, 2022. Eighth Judicial District Court, Clark County; Erika D. Ballou, Judge.

Postconviction petition for a writ of habeas corpus

Moore claimed he is entitled to the application of 20 days statutory credits per month to his minimum sentence pursuant to NRS 209.4465(7)(b). The district court found Moore has been institutionally paroled from his sentence for murder with the use of a deadly weapon and that he aggregated his remaining sentences for three counts of attempted robbery with the use of a deadly weapon and two counts of robbery with the use of a deadly weapon. All of his crimes were committed in 1994. Further, because Moore committed his crimes after 1985 but before 1997, the district court found he was only entitled to receive 10 days of credit a month pursuant to NRS 209.446(1). Finally, the district court found that the credit history report showed he was receiving 10 days of credit per month off of both his minimum and maximum terms. These findings are supported by the record before this court. Thus, we conclude the district court did not err by denying this claim.

Moore also claimed that the failure to apply NRS 209.4465 to his sentence violates 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.

Moore also appears to claim that the failure to apply NRS 209.4465 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). NRS 209.4465 was enacted in 1997, *see* 1997 Nev. Stat., ch. 641, § 5, at 3175-76, years after Moore committed his crimes. Thus, Moore's claim that the statute is not being applied to him does not implicate the Ex Post Facto Clause. We therefore conclude the district court did not err by denying this claim.

Finally, Moore claimed that he was entitled to work credits because he was willing to work but the Nevada Department of Corrections (NDOC) does not have enough opportunities to work. Moore was not entitled to work credits for work he did not actually perform. *See* NRS 209.446(2); *Vickers*, 134 Nev. at 748, 433 P.3d at 308. We therefore conclude the district court did not err by denying this claim.

Petition for writ of mandamus/prohibition

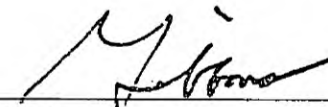
In his petition, Moore claimed that the Nevada Department of Corrections (NDOC) is improperly calculating his aggregate minimum sentence for parole eligibility purposes. He claimed that NDOC was calculating his minimum sentence as 10 years rather than the 9 years Moore calculated.


A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, NRS 34.160, or to control a manifest abuse or arbitrary or capricious exercise of discretion, *Round Hill Gen. Improvement Dist. v.*

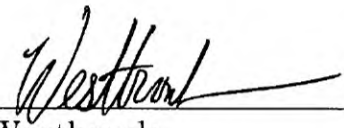
Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). A writ of prohibition may issue to arrest the proceedings of any tribunal, corporation, board, or person exercising judicial functions without or in excess of its jurisdiction. NRS 34.320. A writ of mandamus or prohibition will not issue where a petitioner has “a plain, speedy, and adequate remedy in the ordinary course of law.” NRS 34.170; NRS 34.330.

The district court found that Moore had a plain, speedy, and adequate remedy to pursue his aggregation claim. Specifically, the district court found that Moore’s claim challenged the computation of time served and could be raised in a postconviction petition for a writ of habeas corpus. Thus, the district court denied the petition. These findings are supported by the record before this court. See NRS 34.724(2)(c) (stating that a postconviction petition for a writ of habeas corpus “[i]s the only remedy available to an incarcerated person to challenge the computation of time that the person has served pursuant to a judgment of conviction”). We therefore conclude the district court did not err by denying this petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Erika D. Ballou, District Judge
James Lamont Moore
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk