IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAMS, JESSICA,

Appellant,

VS.

NEVADA DEPARTMENT OF CORRECTIONS (NDOC); JO GENTRY, WARDEN, (JEAN CONSERVATION CAMP),

Respondent,

STATE OF NEVADA,

Real Party in Interest.

S. Ct. No.: 71039 Electronically Filed Sep 22 2016 11:36 a.m. Tracie K. Lindeman

District Ct. No.: A-Glerk of Supreme Court

APPENDIX

Docket 71039 Document 2016-29472

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DISTRICT COURT CLARK COUNTY, NEVADA

CLERK OF THE COURT

WILLIAMS, JESSICA, Petitioner.

A-16-735072-W CASE NO. DEPT NO. 24

VS.

NEVADA DEPARTMENT OF CORRECTIONS (NDOC); JO GENTRY, WARDEN, (JEAN CONSERVATION CAMP), Respondent,

STATE OF NEVADA,

Real Party in Interest.

ORDER DENYING PETITIONER'S WRIT OF HABEAS CORPUS (POST CONVICTION)

Petitioner asks this Court to order that Petitioner is entitled to have NRS 209.4465 Statutory Credits deducted from her minimum sentences as well as her maximum sentences. 1

Petitioner argues that "It lhe law until June 24, 2015 precluded NRS Chapter 209 'good time' credits being deducted from a person's minimum sentence. See Breault v. State, 116 Nev. 311, 314, 996 P. 2d 888, 889 (2000) ("... credits earned to reduce his sentence pursuant to NRS Chapter 209 may only reduce the maximum term.")2

Petitioner contends that the law has been changed by an unpublished Nevada Supreme Court disposition. Vonseydewitz vs. Robert LeGrana⁸ and that, as a result, the Nevada Department of Corrections (hereafter NDOC) must apply NRS Chapter 209 Credits to Petitioner's minimum sentences as well as her maximum sentences.4.

The State opposes this petition contending that Petitioner's reliance upon Vonseydewitz is

⁴ Petition, p. 9:2-6.

Petition for Writ of Habeas Corpus (Post Conviction) (hereafter, "Petition"), filed April 14, 2016, p. 9:10-12.

² Perition, p. 8:1-4. Emphasis supplied by peritioner.

³ Fonseydewitz vs. LeGrand, "Order of Reversal and Remand", No 66159 (June 24, 2015); En banc reconsideration denied, February 19, 2016.

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misplaced because it is an unpublished, three-judge panel decision with no value as a legal precedent. The state further points out that the analysis and reasoning in *Vonseydewitz* directly contradicts another earlier unpublished, three-judge panel decision, decided the year before *Vonseydewitz*, which reached the opposite conclusion – i.e. no application of credits to minimum term sentences – under similar legal circumstances. None of the justices on the *Vonseydewitz* panel were also on the *Kille* panel.

This Court concludes *Vonseydewitz* has not, in fact, changed the law and there is, therefore, no error in the way that Petitioner's incarceration times have been calculated. For that reason, the petition is denied.

ANALYSIS

The unpublished dispositions in *Kille* and *Vonseydewitz* are of no assistance to the Court in its analysis other than to provide some insight into what three of our seven Supreme Court Justices thought of the facts and circumstances presented in *Kille* and what three <u>other</u> members of the Court thought of the facts and circumstances in *Vonseydewitz*. Since both cases reached opposite results under legal circumstances which, on their face, appear to be comparable, little is gained from reviewing either of these cases. The fact that the cases were not chosen for publication only underscores their lack of value in considering <u>this</u> case.⁷

The statutes in question all have one thing in common: they are legislative enactments. As such, it is crucially important to determine what the legislative intent was when the statues were enacted. Our goal is not to evaluate whether we agree or disagree with their intent, nor is it for those of us in the judiciary to second-guess the wisdom of the legislature, regardless of how strongly we may feel about the collective wisdom or lack thereof. Instead, our purpose in reviewing a statute must be to consider what the legislature's goals and purposes were; what they were trying to accomplish, not based upon what we might later substitute as our own rationale, but based upon what was in the contemplation of the legislators at the time of enactment.

⁵ Response to Petition for Writ of Habeas Corpus (hereafter, "Response"), filed 6/25/16, p. 2:11-13.

Response, p. 2:13-17).
 An unpublished disposition, while publically available, does not establish mandatory precedent" NRAP 36(c)(2).

It is understood that the statutes that were in effect at the time the offense was committed, govern.

Petitioner was convicted and sentenced under NRS 484.3795, which stated that a person who violated the statute was "guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years." (Emphasis added.)⁹

The Vonseydewitz Court said that "...the lack of reference to parole eligibility in a minimum-maximum statute suggests that the minimum term imposed was not the minimum term that must be served before an offender was eligible for parole." This Court disagrees.

The legislative intent could not be more clearly expressed: the minimum term that a person shall serve when convicted under NRS 484.3795 is two years. The Petitioner offers nothing to suggest that a sentencing judge would be permitted to impose a minimum sentence of anything less than two years. In this case, the sentencing Judge's compliance with the statute is clear and the Judgment of Conviction lacks no clarity in sentencing the Petitioner to a "MAXIMUM term of NINETY-SIX (96) MONTHS with a MINIMUM parole eligibility of THIRTY-SIX (36) MONTHS" for Count I through Count VI.

In considering the application of NRS 209.4465(7) and NRS 213.120(2) relevant to Petitioner's conviction, this Court concludes that these statutes are consistent and may be interpreted in a mapper which does not create a conflict.

At the time of Petitioner's offense in 2000, NRS 209.4465(7) provided that:

Credits earned pursuant to this section:

- (a) Must be deducted from the maximum term imposed by the sentence; and
- (b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole.

⁶ Weaver v. Graham, 450 U.S. 24, 31-33 (1981).

It is true that there are some statues which *emphasize* or state somewhat differently that a certain number of years must be served before a person becomes eligible for parole, e.g. NRS 200.030(4)(b)(2); NRS 200.366(2)(a)(2) but, in terms of analyzing legislative intent, the difference in phraseology does not, in this court's opinion, reflect any meaningful difference.

¹⁰ Vonseydewitz, p. 4.

"a prisoner who was sentenced to prison for a crime committed on or after July 1, 1995, may be paroled when he has served the minimum term to imprisonment imposed by the Court. Any credits earned to reduce his sentence pursuant to chapter 209 of NRS while the prisoner serves the minimum term of imprisonment may reduce only the maximum term of imprisonment imposed and must not reduce the minimum term of imprisonment."

It is this Court's opinion that the legislature's expression of "minimum term" means "minimum term" and that, by definition, a "minimum term" is not to be further diminished by credits that would reduce the minimum term. Indeed, a "minimum term" is, by its nature, irreducible: it is the minimum term.

Are we to conclude that when the legislature enacts a statute which states a convicted person must serve a minimum term, and implements a provision for good-time credits which excludes application toward minimum sentences, the legislature envisioned anything other than the convicted person serving their required minimum term in prison? To attribute that kind of subliminal thinking to the legislature would require jumping through imaginary hoops that depart from the trajectory of logic and reason.

Accordingly, the petition for habeas corpus is denied.

DATED: August 5, 2016

IMCKOCKETT, District Judge

I hereby certify that on or about the tiate filed, a copy of this Order was served upon the parties as follows:

JOHN G. WATKINS, ESQ. DENNIS C. WILSON, ESQ.

ANGELA MCBREDE, Judicial Executive Assistant



EIGHTH JUDICIAL DISTRICT COURT

Clark County, Nevada

Jim Crockett District Court Judge

Department 24 ph: 702-671-0591 fax: 702-671-0598

TO: JOHN G. WATKINS, ESQ. @ 702-383-8118
TO: DENNIS C. WILSON, ESQ. @ 702-486-3768
FROM: ANGELA MCBRIDE, JEA – DC24
RE: Williams v. NDOC A-16-735072-W
DATE: August 5, 2015

See attached order re: Williams v. NDOC filed this date.

Electronically Filed 08/08/2016 02:28:15 PM

CLERK OF THE COURT

JOHN G. WATKINS, ESQ. 804 South Sixth Street
Las Vegas, Nevada 89101
Telephone: (702) 383-1006
Facsimile: (702) 383-8118
e mail: johngwatkins@hotmail.com

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ELLEN J. BEZIAN, ESQ, Nevada Bar No. 6225 804 South Sixth Street Las Vegas, Nevada 89101 (702) 471-7741

Facsimile: (702) 383-8118

DISTRICT COURT CLARK COUNTY, NEVADA

WILLIAMS, JESSICA,

Petitioner,

VS.

NEVADA DEPARTMENT OF **CORRECTIONS (NDOC)**; JO GENTRY, WARDEN, (JEAN CONSERVATION CAMP),

Respondent,

STATE OF NEVADA,

Real Party in Interest.

Case No.: A-16-735072-W

Dept. No.: XXIV

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that Petitioner JESSICA WILLIAMS appeals to

the Supreme Court of Nevada, the "ORDER DENYING PETITIONER'S WRIT

OF HABEAS CORPUS (POST CONVICTION)1" entered in the Eighth Judicial

District Court of the State of Nevada in and for the County of Clark, Department

Attached as Exhibit.

No. 24 on August 5, 2016.

JANES NATURIE DES

JØHN G. WATKINS, ESQ.

Nevada Bar No. 1574 804 South Sixth Street

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Las Vegas, Nevada 89101

Telephone: (702) 383-1006 Facsimile: (702) 383-8118

e mail: johngwatkins@hotmail.com

ELLEN J. BBZIAN, ESQ. Nevada Bar No. 6225

804 South Sixth Street

Las Vegas, Nevada 89101 Telephone: (702) 471-7741

Facsimile: (702) 383-8118

CERTIFICATE OF SERVICE BY MAIL

I, Sheila Varga, hereby certify pursuant to N.R.A.P. 3(d)(1), that on this 8th

day of August, 2016 I mailed a true and correct copy of the foregoing NOTICE OF

APPEAL addressed to:

Nevada Department Of Corrections

Jo Gentry, Warden

Jean Conversation Camp

3 Prison Road

PO Box 19859

Jean, Nevada 89019

Adam Laxalt, Attorney General Dennis C. Wilson, Esq. 555 East Washington # 3900 Las Vegas, Nevada 89101

Jessica Williams # 68716 Jean Conservation Camp Box 19859 Jean, Nevada 89019

Shejla Varga

an employee of John G. Watkins, Esq.

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DISTRICT IUDGE IIM CROCKEIT DEPARTMENT XXIV

ORDR

DISTRICT COURT CLARK COUNTY, NEVADA

CASE NO.

DEPT NO.

A-16-735072-W

24

WILLIAMS, JESSICA, Petitioner,

VS.

NEVADA DEPARTMENT OF CORRECTIONS (NDOC); JO GENTRY, WARDEN, (JEAN CONSERVATION CAMP), Respondent,

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Petitioner argues that "[t]he law until June 24, 2015 precluded NRS Chapter 209 'good time' credits being deducted from a person's minimum sentence. See Breault v. State, 116 Nev. 311, 314, 996 P. 2d 888, 889 (2000) ("... credits earned to reduce his sentence pursuant to NRS Chapter 209 may only reduce the maximum term.")2

Petitioner contends that the law has been changed by an unpublished Nevada Supreme Court disposition, Vonseydewitz vs. Robert LeGrand³ and that, as a result, the Nevada Department of Corrections (hereafter NDOC) must apply NRS Chapter 209 Credits to Petitioner's minimum sentences as well as her maximum sentences.4

The State opposes this petition contending that Petitioner's reliance upon Vonseydewitz is

Petition for Writ of Habeas Corpus (Post Conviction) (hereafter, "Petition"), filed April 14, 2016, p. 9:10-12. ² Petition, p. 8:1-4. Emphasis supplied by petitioner.

² Vonseydewitz vs. LeGrand, "Order of Reversal and Remand", No 66159 (June 24, 2015); En banc reconsideration denied, February 19, 2016.

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DISTRICT JUDGE JIM CROCKETT DEPARTMENT XXIV

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This Court concludes Vonseydewitz has not, in fact, changed the law and there is, therefore, no error in the way that Petitioner's incarceration times have been calculated. For that reason, the petition is denied.

ANALYSIS

The unpublished dispositions in Kille and Vonseydewitz are of no assistance to the Court in its analysis other than to provide some insight into what three of our seven Supreme Court Justices thought of the facts and circumstances presented in Kille and what three other members of the Court thought of the facts and circumstances in Vonseydewitz. Since both cases reached opposite results under legal circumstances which, on their face, appear to be comparable, little is gained from reviewing either of these cases. The fact that the cases were not chosen for publication only underscores their lack of value in considering this case.7

The statutes in question all have one thing in common: they are legislative enactments. As such, it is crucially important to determine what the legislative intent was when the statues were enacted. Our goal is not to evaluate whether we agree or disagree with their intent, nor is it for those of us in the judiciary to second-guess the wisdom of the legislature, regardless of how strongly we may feel about the collective wisdom or lack thereof. Instead, our purpose in reviewing a statute must be to consider what the legislature's goals and purposes were; what they were trying to accomplish, not based upon what we might later substitute as our own rationale, but based upon what was in the contemplation of the legislators at the time of enactment,

Response to Petition for Writ of Habeas Corpus (hereafter, "Response"), filed 6/28/16, p. 2:11-13. Response, p. 2:13-17).

[&]quot;An unpublished disposition, while publically available, does not establish mandatory precedent" NRAP 36(c)(2).

DISTRICT JUDGE JIM CROCKETT DEPARTMENT XXIV It is understood that the statutes that were in effect at the time the offense was committed, govern.8

Petitioner was convicted and sentenced under NRS 484.3795, which stated that a person who violated the statute was "guilty of a category B felony and **shall** be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years." (Emphasis added.)⁹

The *Vonseydewitz* Court said that "... the lack of reference to parole eligibility in a minimum-maximum statute suggests that the minimum term imposed was not the minimum term that must be served before an offender was eligible for parole." This Court disagrees.

The legislative intent could not be more clearly expressed: the minimum term that a person shall serve when convicted under NRS 484.3795 is two years. The Petitioner offers nothing to suggest that a sentencing judge would be permitted to impose a minimum sentence of anything less than two years. In this case, the sentencing Judge's compliance with the statute is clear and the Judgment of Conviction lacks no clarity in sentencing the Petitioner to a "MAXIMUM term of NINETY-SIX (96) MONTHS with a MINIMUM parole eligibility of THIRTY-SIX (36) MONTHS" for Count I through Count VI.

In considering the application of NRS 209.4465(7) and NRS 213.120(2) relevant to Petitioner's conviction, this Court concludes that these statutes are consistent and may be interpreted in a manner which does not create a conflict.

At the time of Petitioner's offense in 2000, NRS 209.4465(7) provided that:

Credits earned pursuant to this section:

- (a) Must be deducted from the maximum term imposed by the sentence; and
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⁸ Weaver v. Graham, 450 U.S. 24, 31-33 (1981).

It is true that there are some statues which *emphastze* or state somewhat differently that a certain number of years must be served before a person becomes eligible for parole, e.g. NRS 200.030(4)(b)(2); NRS 200.366(2)(a)(2) but, in terms of analyzing legislative intent, the difference in phraseology does not, in this court's opinion, reflect any meaningful difference.

¹⁰ Vonseydewitz, p. 4.

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NRS 213.120(2) provided, in part, that:

"a prisoner who was sentenced to prison for a crime committed on or after July 1, 1995, may be paroled when he has served the minimum term to imprisonment imposed by the Court. Any credits earned to reduce his sentence pursuant to chapter 209 of NRS while the prisoner serves the minimum term of imprisonment may reduce only the maximum term of imprisonment imposed and must not reduce the minimum term of imprisonment."

It is this Court's opinion that the legislature's expression of "minimum term" means "minimum term" and that, by definition, a "minimum term" is not to be further diminished by credits that would reduce the minimum term. Indeed, a "minimum term" is, by its nature, irreducible: it is the minimum term.

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Are we to conclude that when the legislature enacts a statute which states a convicted person must serve a minimum term, and implements a provision for good-time credits which excludes application toward minimum sentences, the legislature envisioned anything other than the convicted person serving their required minimum term in prison? To attribute that kind of subliminal thinking to the legislature would require jumping through imaginary hoops that depart from the trajectory of logic and reason.

Accordingly, the petition for habeas corpus is denied.

DATED: August 5, 2016

T, District Judge

I hereby certify that on or about the date filed, a copy of this Order was served upon the parties as follows:

JOHN G. WATKINS, ESQ. DENNIS C. WILSON

Judicial Executive Assistant

DISTRICT JUDGE JIM CROCKETT DEPARTMENT XXIV 26



EIGHTH JUDICIAL DISTRICT COURT

Clark County, Nevada

Jim Crockett District Court Judge

Department 24 ph: 702-671-0591 fax: 702-671-0598

TO: JOHN G. WATKINS, ESQ. @ 702-383-8118 TO: DENNIS C. WILSON, ESQ. @ 702-486-3768 FROM: ANGELA MCBRIDE, JEA – DC24 RE: Williams v. NDOC A-16-735072-W

DATE: August 5, 2015

See attached order re: Williams v. NDOC filed this date.

Electronically Filed 08/11/2016

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DISTRICT COURT CLARK COUNTY, NEVADA

Pentioner.

NEVADA DEPARTMENT OF CORRECTIONS (NDOC); JO GENTRY, WARDEN, (JEAN CONSERVATION CAMP),

Respondent,

STATE OF NEVADA

JESSICA WILLIAMS,

Real Party in Interest

Case No: A-16-735072-W

Dept. No: XXIV

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that on August 5, 2016, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on August 11, 2016.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Chaunte Pleasant

Chaunte Pleasant, Deputy Clerk

CERTIFICATE OF MAILING

I hereby certify that on this 11 day of August 2016. I placed a copy of this Notice of Entry in:

The bin(s) located in the Regional Justice Center of: Clark County District Attorney's Office Attorney General's Office - Appellate Division☐ The United States mail addressed as follows:

Jessica Williams # 68716 P.O. Box 19859 Jean, NV 89019

John G. Watkins, Esq. 804 South Sixth Street

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Las Vegas, NV 89101

/s/ Chaunie Pleasani

Chaunte Pleasant, Deputy Clerk

Electronically Filed 08/15/2016 10:48:51 AM

CLERK OF THE COURT

JOHN G. WATKINS, ESQ. 804 South Sixth Street Las Vegas, Nevada 89101

Telephone: (702) 383-1006 Facsimile: (702) 383-8118 e mail: johngwatkins@hotmail.com

ELLEN J. BEZIAN, ESQ, Nevada Bar No. 6225 804 South Sixth Street Las Vegas, Nevada 89101 (702) 471-7741

Facsimile: (702) 383-8118

DISTRICT COURT CLARK COUNTY, NEVADA

WILLIAMS, JESSICA,

Petitioner,

VS.

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NEVADA DEPARTMENT OF **CORRECTIONS (NDOC);** JO GENTRY, WARDEN, (JEAN CONSERVATION CAMP),

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NOTICE IS HEREBY GIVEN that Petitioner JESSICA WILLIAMS appeals to

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¹ Attached as Exhibit.

No. 24 on August 5, 2016 (Notice Of Entry Of Order on August 11, 2016). 1 /s/ John G. Watkins, Esq. Ellen J. Bezian, Esq. 3 JOHN G. WATKINS, ESQ. ELLEN J. BEZIAN, ESQ. 4 Nevada Bar No. 1574 Nevada Bar No. 6225 804 South Sixth Street 804 South Sixth Street 5 Las Vegas, Nevada 89101 Las Vegas, Nevada 89101 6 Telephone: (702) 383-1006 Telephone: (702) 471-7741 Facsimile: (702) 383-8118 7 Facsimile: (702) 383-8118 e mail: johngwatkins@hotmail.com 8 9 CERTIFICATE OF SERVICE BY MAIL 10 I, Sheila Varga, hereby certify pursuant to N.R.A.P. 3(d)(1), that on this 14th 11 12 day of August, 2016 I mailed a true and correct copy of the foregoing NOTICE OF 13 APPEAL addressed to: 14 Nevada Department Of Corrections 15 Jo Gentry, Warden 16 Jean Conversation Camp 3 Prison Road 17 PO Box 19859 18 Jean, Nevada 89019 19 Adam Laxalt, Attorney General 20 Dennis C. Wilson, Esq. 21 555 East Washington # 3900 Las Vegas, Nevada 89101 22 23 Jessica Williams # 68716 Jean Conservation Camp 24 Box 19859 . 25 Jean, Nevada 89019 26

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s 89019
/s/ Sheila Varga
Sheila Varga
an employee of John G. Watkins, Esq.
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COPY

Electronically Filed
08/11/2016

CLERK OF THE COURT

NEOJ

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DISTRICT COURT
CLARK COUNTY, NEVADA

Petitioner,

Respondent,

Real Party in Interest

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JESSICA WILLIAMS,

VS.

CONSERVATION CAMP),

STATE OF NEVADA,

NEVADA DEPARTMENT OF CORRECTIONS

true and correct copy of which is attached to this notice.

(NDOC); JO GENTRY, WARDEN, (JEAN

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Case No: A-16-735072-W

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/s/ Chaunte Pleasant

Chaunte Pleasant, Deputy Clerk

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Clark County District Attorney's Office

Attorney General's Office – Appellate Division-

☑ The United States mail addressed as follows:

Jessica Williams # 68716 P.O. Box 19859 Jean, NV 89019

John G. Watkins, Esq. 804 South Sixth Street Las Vegas, NV 89101

/s/ Chaunte Pleasant

Chaunte Pleasant, Deputy Clerk

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ORDR

DISTRICT COURT CLARK COUNTY, NEVADA CLERK OF THE COURT

WILLIAMS, JESSICA, Petitioner,

CASE NO. A-16-735072-W DEPT NO. 24

VS.

NEVADA DEPARTMENT OF CORRECTIONS (NDOC); JO GENTRY, WARDEN, (JEAN CONSERVATION CAMP), Respondent,

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ORDER DENYING PETITIONER'S WRIT OF HABEAS CORPUS (POST CONVICTION)

Petitioner asks this Court to order that Petitioner is entitled to have NRS 209.4465 Statutory Credits deducted from her minimum sentences as well as her maximum sentences. ¹

Petitioner argues that "[t]he law until June 24, 2015 precluded NRS Chapter 209 'good time' credits being deducted from a person's minimum sentence. See *Breault v. State*, 116 Nev. 311, 314, 996 P. 2d 888, 889 (2000) ("... credits earned to reduce his sentence pursuant to NRS Chapter 209 may only reduce the maximum term.")²

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The State opposes this petition contending that Petitioner's reliance upon Vonseydewitz is

¹ Petition for Writ of Habeas Corpus (Post Conviction) (hereafter, "Petition"), filed April 14, 2016, p. 9:10-12.

² Petition, p. 8:1-4. Emphasis supplied by petitioner.

³ Vonseydewitz vs. LeGrand, "Order of Reversal and Remand", No 66159 (June 24, 2015); En banc reconsideration denied, February 19, 2016.

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⁵ Response to Petition for Writ of Habeas Corpus (hereafter, "Response"), filed 6/28/16, p. 2:11-13.

⁶ Response, p. 2:13-17).

⁷ "An unpublished disposition, while publically available, does not establish mandatory precedent" NRAP 36(c)(2).

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It is understood that the statutes that were in effect at the time the offense was committed, govern. 8

Petitioner was convicted and sentenced under NRS 484.3795, which stated that a person who violated the statute was "guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years." (Emphasis added.)⁹

The *Vonseydewitz* Court said that "...the lack of reference to parole eligibility in a minimum-maximum statute suggests that the minimum term imposed was not the minimum term that must be served before an offender was eligible for parole."

This Court disagrees.

The legislative intent could not be more clearly expressed: the minimum term that a person shall serve when convicted under NRS 484.3795 is two years. The Petitioner offers nothing to suggest that a sentencing judge would be permitted to impose a minimum sentence of anything less than two years. In this case, the sentencing Judge's compliance with the statute is clear and the Judgment of Conviction lacks no clarity in sentencing the Petitioner to a "MAXIMUM term of NINETY-SIX (96) MONTHS with a MINIMUM parole eligibility of THIRTY-SIX (36) MONTHS" for Count I through Count VI.

In considering the application of NRS 209.4465(7) and NRS 213.120(2) relevant to Petitioner's conviction, this Court concludes that these statutes are consistent and may be interpreted in a manner which does not create a conflict.

At the time of Petitioner's offense in 2000, NRS 209.4465(7) provided that:

Credits earned pursuant to this section:

- (a) Must be deducted from the maximum term imposed by the sentence; and
- (b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole.

⁸ Weaver v. Graham, 450 U.S. 24, 31-33 (1981).

It is true that there are some statues which *emphasize* or state somewhat differently that a certain number of years must be served before a person becomes eligible for parole, e.g. NRS 200.030(4)(b)(2); NRS 200.366(2)(a)(2) but, in terms of analyzing legislative intent, the difference in phraseology does not, in this court's opinion, reflect any meaningful difference.

¹⁰ Vonseydewitz, p. 4.

NRS 213.120(2) provided, in part, that:

"a prisoner who was sentenced to prison for a crime committed on or after July 1, 1995, may be paroled when he has served the minimum term to imprisonment imposed by the Court. Any credits earned to reduce his sentence pursuant to chapter 209 of NRS while the prisoner serves the minimum term of imprisonment may reduce only the maximum term of imprisonment imposed and must not reduce the minimum term of imprisonment."

It is this Court's opinion that the legislature's expression of "minimum term" means "minimum term" and that, by definition, a "minimum term" is not to be further diminished by credits that would reduce the minimum term. Indeed, a "minimum term" is, by its nature, irreducible: it is the minimum term.

Are we to conclude that when the legislature enacts a statute which states a convicted person must serve a minimum term, and implements a provision for good-time credits which excludes application toward minimum sentences, the legislature envisioned anything other than the convicted person serving their required minimum term in prison? To attribute that kind of subliminal thinking to the legislature would require jumping through imaginary hoops that depart from the trajectory of logic and reason.

Accordingly, the petition for habeas corpus is denied.

DATED: August 5, 2016

JIMCKOCKETT, District Judge

I hereby certify that on or about the date filed, a copy of this Order was served upon the parties as follows:

JOHN G. WATKINS, ESQ. DENNIS C. WILSON, ESQ.

ANGELA MCBRIDE, Judicial Executive Assistant



EIGHTH JUDICIAL DISTRICT COURT

Clark County, Nevada

Jim Crockett District Court Judge

Department 24 ph: 702-671-0591 fax: 702-671-0598

TO: JOHN G. WATKINS, ESQ. @ 702-383-8118 TO: DENNIS C. WILSON, ESQ. @ 702-486-3768 FROM: ANGELA MCBRIDE, JEA – DC24 RE: Williams v. NDOC A-16-735072-W DATE: August 5, 2015

See attached order re; Williams v. NDOC filed this date.