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**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.

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APPELLANT'S REPLY BRIEF

JOHN G. WATKINS, ESQUIRE
COUNSEL FOR THE APPELLANT
Nevada Bar Number 1574
804 South Sixth Street
Las Vegas, Nevada 89101
Telephone: (702) 383-1006
Facsimile: (702) 383-8118
email: johngwatkins@hotmail.com

ELLEN J. BEZIAN, ESQUIRE
COUNSEL FOR THE APPELLANT
Nevada Bar Number 6225
804 South Sixth Street
Las Vegas, Nevada 89101
Telephone: (702) 471-7741
Facsimile: (702) 383-8118

Nevada Department of Corrections
Jo Gentry, Warden
Jean Conservation Camp
3 Prison Road
PO Box 19859
Jean, Nevada 89019

Adam Laxalt, Attorney General
DENNIS C. WILSON, ESQUIRE
Nevada Bar Number 4420
555 East Washington #3900
Las Vegas, Nevada 89101
Telephone: (702) 486-3086
Facsimile: (702) 486-3768

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STATUTES

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1 **COMMENT ON THE ATTORNEY GENERAL’S**
2 **“STATEMENT OF THE CASE”**

3 The circumstances of the tragic accident in Jessica’s case are irrelevant to
4 the issue of “statutory credits” before this Court. The Attorney General’s self ser-
5 ving description “plowed her car into a group of teenagers picking up trash on the
6 freeway” is to inflame this Court against Jessica in hopes that Jessica’s claim for
7 “statutory credits” will be denied. The Attorney General conveniently leaves out
8 that the Jury in Jessica’s case found that she fell asleep and was not impaired by
9 marijuana. Jessica’s marijuana conviction was based on the two (2) nanogram/five
10 (5) nanogram theory only. It appears that based on the current status of marijuana
11 usage in Nevada, the two (2) nanogram/five (5) nanogram theory will be elimin-
12 ated.
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17 **I**

18 **POINTS AND AUTHORITIES**

19 **A.**

20 **JESSICA IS ENTITLED TO HAVE**
21 **NRS 209.4465 STATUTORY CREDITS**
22 **DEDUCTED FROM HER MINIMUM SENTENCES**
23 **AS WELL AS THE MAXIMUMS**

- 24 **a. The 7(b) exception does NOT apply to “minimum-**
25 **maximum” sentences under NRS 193.130.**

26 The issue in Jessica’s case is the meaning of Section 7(b) of NRS 209.4465.
27
28

1 This Court reviews questions of statutory construction *de novo* *State v. Catanio*,
2 120 Nev. 1030, 1033, 102 P.3d 588, 590 (2004). When the plain language of the
3 statute reveals its meaning nothing more is required. *McKay v. Bd. of Supervisors*
4 *of Carson City*, 102 Nev. 644, 648, 730 P.2d 438, 441 (1986).
5

6
7 NRS 209.4465(7) states,

8 Credits earned pursuant to this section:

9
10 (a) Must be deducted from the maximum term
11 imposed by the sentence;

12 and

13 (b) **Apply to eligibility for parole** unless the
14 offender was sentenced pursuant to a statute
15 which specifies a minimum sentence that must
16 be served before a person becomes eligible for
17 parole.

18 (emphasis added)

19 Section 7(b)'s meaning is clear on its face. Credits earned apply to a person's min-
20 imum sentence as well as the maximum "... unless the offender was sentenced
21 pursuant to a statute **which specifies** a minimum sentence that must be served
22 before a person becomes eligible for parole." (emphasis added.) There is no lang-
23 uage in NRS 193.130(2) or NRS 484.3795 that specifies an offender must serve a
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1 minimum sentence before he or she becomes eligible for parole.¹ The Attorney
2 General ignores this fact. Therefore, the exception listed in 7(b) does NOT apply
3 to Jessica's sentences.
4

5 If the 7(b) exception applied to "minimum-maximum" sentences under NRS
6 193.130, 7(b) would be meaningless and credits would apply to no one! During
7 the relevant time period herein, Nevada sentencing statutes primarily phrased par-
8 olable sentences in one of two ways: (1) "minimum-maximum" sentences, and
9 (2) "parole-eligibility" sentences. Under the Attorney General's argument, no one
10 would be entitled to earned credits applied to the minimum sentence making 7(b)
11 meaningless.²
12
13
14

15 CONCLUSION

16

17 At issue are the meanings and interrelations of a statute regarding the appli-
18 cation of statutory credits, NRS 209.4465(7)(b), and the statutes pursuant to which
19 Jessica Williams was sentenced, NRS 193.130(2)(b) and NRS 484.3795. The
20 plain reading of NRS 209.4465 provides for the statutory "good time" credits to be
21 applied to both the maximum and minimum sentence when sentenced pursuant to
22
23

24 ¹ Had the legislature intended minimum-maximum sentencing statutes to be within
25 NRS 209.4465(7)(b)'s exception, it could readily have done so by using the
26 parole-eligibility verbiage.

27 ² The Attorney General's reference to legislative history is inapposite since 7(b)'s
28 meaning is plain on its face, especially any history prior to 1995.

1 NRS 193.130. Therefore, Jessica is entitled to the relief requested.

2
3 EXECUTED on the 10th day of November, 2016.

4 Respectfully submitted,

5
6 /s/ John G. Watkins, Esquire

7
8 John G. Watkins, Esquire

9
10 /s/ Ellen J. Bezian, Esquire

11
12 Ellen J. Bezian, Esquire

13 **VERIFICATION**

14 Under penalty of perjury, the undersigned declares that in the foregoing
15 Reply Brief and knows the contents thereof; that the Reply Brief is true of the
16 undersigned's own knowledge, except as to those matters stated on information
17 and belief, and as to such matters the undersigned believes them to be true.

18
19
20 /s/ John G. Watkins, Esquire

21
22 John G. Watkins, Esquire

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24 /s/ Ellen J. Bezian, Esquire

25
26 Ellen J. Bezian, Esquire

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CERTIFICATE OF COMPLIANCE

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:

☐ This brief has been prepared in a proportionally spaced typeface using Microsoft Word 2016 with Times Roman 14 font style

2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is either:

☐ Proportionally spaced, has a typeface of 14 points or more, and contains 528 words; or

☐ Monospaced, has 10.5 or fewer characters per inch, and contains _____ words or _____ lines of text, or

☐ Does not exceed 9 pages.

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief

1 regarding matters in the record to be supported by a reference to the
2 page and volume number, if any, of the transcript or appendix where
3 the matter relied on is to be found. I understand that I may be subject
4 to sanctions in the event that the accompanying brief is not in conformity
5 with the requirements of the Nevada Rules of Appellate Procedure.
6

7 Dated this 10th day of November, 2016.

8 /s/ John G. Watkins, Esquire

9
10 John G. Watkins, Esquire
11 Nevada Bar No. 1574
12 804 South Sixth Street
13 Las Vegas, Nevada 89101
14 Telephone: (702) 383-1006

15 /s/ Ellen J. Bezian, Esquire

16
17 Ellen J. Bezian, Esquire
18 Nevada Bar No. 6225
19 804 South Sixth Street
20 Las Vegas, Nevada 89101
21 Telephone: (702) 471-7741

22 **CERTIFICATE OF SERVICE**

23 I, Sheila Varga, hereby certify pursuant to N.R.C.P. 5(b), that on this 10th
24 day of November, 2016 I mailed a true and correct copy of the REPLY BRIEF
25 addressed to:
26
27
28

1 Nevada Department of Corrections
2 Jo Gentry, Warden
3 Jean Conservation Camp
4 3 Prison Road
5 PO Box 19859
6 Jean, Nevada 89019

7 Adam Laxalt, Attorney General
8 Dennis C. Wilson, Esquire
9 555 East Washington # 3900
10 Las Vegas, Nevada 89101

11 Steven Wolfson, District Attorney
12 200 Lewis Street
13 Second Floor
14 Las Vegas, Nevada 89101

15 /s/ Sheila Varga

16

Sheila Varga, an employee
17 of John G. Watkins, Esquire
18
19
20
21
22
23
24
25
26
27
28