

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

GERARDO PEREZ,

Appellant,

Vs.

BRIAN WILLIAMS, WARDEN,

Respondent

Case No. 75001

Electronically Filed  
Aug 06 2018 08:20 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**APPELLANT'S APPENDIX**

(Appeal from Judgment of Conviction)

**ATTORNEY FOR APPELLANT**

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ADAM LAXALT  
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(775) 684-1265

## APPENDIX VOLUME ONE

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DATED this 3<sup>rd</sup> day of August, 2018.

/s/ BRET O. WHIPPLE, ESQ.

BRET O. WHIPPLE, ESQ.

JUSTICE LAW CENTER

1100 South 10<sup>th</sup> Street

Las Vegas, NV 89104

Phone: 702-731-0000

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61  
FILED

APR 12 2017

CLERK OF COURT

1 Case No. C200133  
2 Dept. No. II (27)



3 IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE  
4 STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK

GERARDO PEREZ

Petitioner,

v.

7 BRIAN WILLIAMS, Warden, HOSP

Respondent.

TIME COMPUTATION  
PETITION FOR WRIT  
OF HABEAS CORPUS  
(POSTCONVICTION)  
PER NRS 34.784

A-17-753832-W  
VII

INSTRUCTIONS:

- (1) This petition must be legibly handwritten or typewritten, signed by the petitioner and verified.
- (2) Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) If you want an attorney appointed, you must complete the Affidavit in Support of Request to Proceed in Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
- (4) You must name as respondent the person by whom you are confined or restrained. If you are in a specific institution of the Department of Corrections, name the warden or head of the institution. If you are not in a specific institution of the Department but within its custody, name the Director of the Department of Corrections.
- (5) You must include all grounds or claims for relief which you may have regarding your conviction or sentence. Failure to raise all grounds in this petition may preclude you from filing future petitions challenging your conviction and sentence.
- (6) You must allege specific facts supporting the claims in the petition you file seeking relief from any conviction or sentence. Failure to allege specific facts rather than just conclusions may cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which you claim your counsel was ineffective.
- (7) When the petition is fully completed, the original and one copy must be filed with the clerk of the state district court for the county in which you were convicted. One copy must be mailed to the respondent, one copy to the Attorney General's Office, and one copy to the district attorney of the county in which you were convicted or to the original prosecutor if you are challenging your original conviction or sentence. Copies must conform in all particulars to the original submitted for filing.

PETITION

1. Name of institution and county in which you are presently imprisoned or where and how you are presently restrained of your liberty: High Desert State Prison, Clark County, Nevada
2. Name and location of court which entered the judgment of conviction under attack: EIGHTH Judicial District Court, Clark County, Nevada (Dept. 2) (Hon. Valerie Vega)
3. Date of judgment of conviction: April 13, 2005
4. Case number: C200133
5. (a) Length of sentence: Ten (10) years to twenty-five (25) years plus an equal and consecutive sentence of Ten (10) years to twenty-five (25) years

CLERK OF THE COURT

APR 09 2017

RECEIVED

(b) If sentence is death, state any date upon which execution is scheduled:.... N/A

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion?

Yes ..... No ☒...

If "yes," list crime, case number and sentence being served at this time: Not Applicable

7. Nature of offense involved in conviction being challenged: Second Degree Murder with Use of a Deadly Weapon (Category A Felony) in violation of NRS 200.010, 200.030, 193.165.

8. What was your plea? (check one)

(a) Not guilty .....

(b) Guilty ☒...

(c) Guilty but mentally ill .....

(d) Nolo contendere .....

9. If you entered a plea of guilty or guilty but mentally ill to one count of an indictment or information, and a plea of not guilty to another count of an indictment or information, or if a plea of guilty or guilty but mentally ill was negotiated, give details: Contained in Guilty Plea Agreement (GPA) on file with the Court (not attached as an Exhibit).

10. If you were found guilty or guilty but mentally ill after a plea of not guilty, was the finding made by: (check one)

(a) Jury Not Applicable

(b) Judge without a jury Not Applicable

11. Did you testify at the trial? Yes ..... No ..... Not Applicable

12. Did you appeal from the judgment of conviction? Yes ☒ No .....

13. If you did appeal, answer the following:

(a) Name of court: Nevada Supreme Court

(b) Case number or citation: unknown

(c) Result: /

(d) Date of result: /

(Attach copy of order or decision, if available.)

1 14. If you did not appeal, explain briefly why you did not: Not Applicable

2  
3  
4 15. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any  
5 petitions, applications or motions with respect to this judgment in any court, state or federal? Yes X No .....

6 16. If your answer to No. 15 was "yes," give the following information: Not Applicable Time Computation Worksheet

7 (a) (1) Name of court: .....

8 (2) Nature of proceeding: .....

9  
10 (3) Grounds raised: .....

11  
12  
13 (4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ..... No .....

14 (5) Result: .....

15 (6) Date of result: .....

16 (7) If known, citations of any written opinion or date of orders entered pursuant to such result:  
17 .....

18 (b) As to any second petition, application or motion, give the same information:

19 (1) Name of court: .....

20 (2) Nature of proceeding: .....

21 (3) Grounds raised: .....

22 (4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ..... No .....

23 (5) Result: .....

24 (6) Date of result: .....

25 (7) If known, citations of any written opinion or date of orders entered pursuant to such result:  
26 .....

27 (c) As to any third or subsequent additional applications or motions, give the same information as above, list  
28 them on a separate sheet and attach.

1 (d) Did you appeal to the highest state or federal court having jurisdiction, the result or action taken on any  
2 petition, application or motion?

3 (1) First petition, application or motion? Yes ..... No .....

4 Citation or date of decision: .....

5 (2) Second petition, application or motion? Yes ..... No .....

6 Citation or date of decision: .....

7 (3) Third or subsequent petitions, applications or motions? Yes ..... No .....

8 Citation or date of decision: .....

9 (e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you  
10 did not. (You must relate specific facts in response to this question. Your response may be included on paper which  
11 is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in  
12 length.) Not Applicable.

13  
14 17. Has any ground being raised in this petition been previously presented to this or any other court by way of  
15 petition for habeas corpus, motion, application or any other postconviction proceeding? If so, identify:

16 (a) Which of the grounds is the same: Not Applicable.

17  
18 (b) The proceedings in which these grounds were raised: Not Applicable

19  
20 (c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this  
21 question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your  
22 response may not exceed five handwritten or typewritten pages in length.) Not Applicable.

23  
24 18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d), or listed on any additional pages you have attached,  
25 were not previously presented in any other court, state or federal, list briefly what grounds were not so presented,  
26 and give your reasons for not presenting them. (You must relate specific facts in response to this question. Your  
27 response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not  
28 exceed five handwritten or typewritten pages in length.) Time Computation Issues being raised

1 in the 1<sup>st</sup> instance pursuant to NRS 34.724.

2 19. Are you filing this petition more than 1 year following the filing of the judgment of conviction or the filing  
3 of a decision on direct appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in  
4 response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the  
5 petition. Your response may not exceed five handwritten or typewritten pages in length.) Yes: Time computation  
6 was not subject to one year time limit per NRS 34.724.

7 20. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment  
8 under attack? Yes ..... No ☒ .....

9 If yes, state what court and the case number: Not Applicable.

10  
11 21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on  
12 direct appeal: Randall H. Pike - Special Public Defender's Office.

13  
14 22. Do you have any future sentences to serve after you complete the sentence imposed by the judgment under  
15 attack? Yes ..... No ☒ .....

16 If yes, specify where and when it is to be served, if you know: Not Applicable.

17  
18 23. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the  
19 facts supporting each ground. If necessary you may attach pages stating additional grounds and facts  
20 supporting same.  
21  
22  
23  
24  
25  
26  
27  
28

1 (a) Ground ONE: Petitioner is challenging how the Nevada Department of  
2 Corrections (The State of Nevada and the Respondent) is calculating  
3 his sentence and is seeking Relief under NRS 34.724 and case  
4 law interpreting same.

5 Supporting FACTS (Tell your story briefly without citing cases or law.): .....

6 A. Petitioner's Sentence is not being calculated properly under NRS 209.4465  
7 (Failure to Deduct Credits)

8 Petitioner was convicted pursuant to a Judgment of Conviction filed  
9 April 13, 2005 of one Count of Second Degree Murder with the Use of  
10 A Deadly Weapon (A violation of NRS 200.010, 200.030 and 193.165 - A  
11 Category "A" felony) and sentenced to two consecutive sentences of  
12 10 to 25 years.

13 Under NRS 209.4465 (in effect in 1997) Petitioner is entitled to have  
14 twenty (20) days per month of statutory good time deducted from the  
15 minimum term of his sentence, as well as any additional allowed credits,  
16 such as for work, programming, etc.

17 The NDOC has refused and/or failed to deduct the twenty (20)  
18 days of statutory good time Petitioner has earned from the minimum  
19 term of his sentence (and all allowable credits). Petitioner has requested  
20 that twenty (20) days of statutory good time be deducted from his  
21 sentence.<sup>1</sup> The NDOC's refusal and/or failure to deduct that good time

22 credit from his sentence is in violation of the Nevada Supreme Court's  
23 decision in Vonschewitz v. LeGrand, NSC Case NO. 66154 (2015),  
24 which can be cited pursuant to NRAP 33(3)(c) as persuasive authority.

25 The NDOC's failure also constitutes a violation of Petitioner's  
26 5<sup>th</sup> and 14<sup>th</sup> Amendment Rights to Due Process under the U.S. Constitution.

27 III

28 III

1. Petitioner has exhausted his administrative remedies per Administrative  
Regulation (AR) 740, and NRS 34.726. See, NOTIS (Nevada Offender Tracking  
Information System) Issue ID -6- number 20063025234.



1 (b) Ground <sup>ONE</sup> ~~Two~~ Continued from Page Six (6).

2 B. Petitioner's Sentence is not being calculated properly under  
3 NRS 209.4465 (Retrospective Application).

4 The NDC is Denying Petitioner the twenty (20) days a month  
5 ~~Supporting FACTS (Tell your story briefly, without citing cases or law):~~ of substituting good time  
6 (as well as any additional allowed credits for work, programming, etc.)  
7 being deducted from the minimum term of Petitioner's sentence  
8 based upon the application of the exclusions provisions of Section  
9 eight (8) of NRS 209.4465, which were not in effect at the time  
10 of my alleged offense (and conviction, sentencing and JOC).

11 The application of NRS 209.4465 Section (8) Exclusions violates  
12 Petitioner's Right to be free from the Ex Post Facto Clause under  
13 Article I, Section 10, of the U.S. Constitution and the U.S. Supreme  
14 Court's decision in Heaven v. Graham, 450 U.S. 24 (1981), and the  
15 NSC's decisions in Stevens v. NSP, 969 P.2d 945 (1991); Goldsborough  
16 v. Hennigan, 460 P.2d 350 (1970); and the Wassedantz case, Supra.

17 C. Petitioner's Sentence is not being calculated properly under  
18 NRS 209.4465 (Parole Eligibility).

19 The NDC is not properly calculating Petitioner's parole eligibility  
20 under NRS 209.4465 resulting in Petitioner's sentence being lengthened.

21 While serving his 10 to 25 year sentence for Second Degree  
22 Murder, Petitioner was seen by the Parole Board, denied parole,  
23 and given what is commonly known as a "dump" of a number of  
24 years until the next time he would be eligible.

25 Petitioner contends that any "dump" he received was, and is,  
26 subject to the reductions allowed for under NRS 209.4465 for  
27 good time / work time such that he should have been allowed to  
28

1 (c) Ground <sup>ONE</sup> ~~THREE~~ Continued from Page Seven (7)

2 go back to the Parole Board in a time frame less than the time his  
3 parole was deferred ("damp") but since this time period was  
4 improperly calculated as 'flat time' it improperly lengthened his  
5 ~~Supporting Facts: See your copy briefly without citing cases or law.~~ sentence.

6 Petitioner was granted his Parole on the 10 to 25 year sentence  
7 and therefore asks this Court to order the start of the 10 to 25  
8 year sentence for the weapons enhancement be ordered to start  
9 sooner, retroactive to the date the period between Parole Board  
10 hearings should have been reduced.

11  
12 D. Petitioner's Sentence is not being calculated properly under  
13 NRS 209.4465 (Statutory Interpretation of NRS 193.165)

14 Petitioner has been paroled from the sentence he received for  
15 Second Degree Murder (10 to 25 years) to the one for the Weapons  
16 Enhancement under NRS 193.165 (10 to 25 years).

17 Petitioner contends that the NDOC does not allow or provide  
18 inmates with credits off the minimum sentence of the weapons  
19 enhancement sentences in violation of NRS 209.4465 as the NDOC is  
20 applying exclusion seven (7) when it is not specifically allowed and  
21 violates the plain meaning of the statutes as set forth in the  
22 Von Seydewitz decision, supra, in which the NSC held that the NDOC  
23 is "misapplying the exception in NRS 209.4465 (7)(b) and NRS 209.4465  
24 (7)(b)'s exception refers to sentencing statutes... But rather than  
25 relying on [his] sentencing statute... [the] NDOC is relying on  
26 the verbiage in his Judgment of Conviction."

27 Petitioner therefore requests the NDOC be ordered, as in  
28 Von Seydewitz, to allow Petitioner the full amount of credits

1 (d) Ground <sup>ONE</sup> ~~TWO~~ continued from page eight (8).

2 allowed under NRS 204.446.5 off the minimum sentence that he is  
3 being denied.

4 As a result of Grounds 1A, 1B, 1C, and 1D, Respondent is  
5 ~~supporting facts that are not necessary to the case or law~~ improperly calculating  
6 Petitioner's sentences such that he was, and is, not being given  
7 the proper amount of credit (statutory good time, work time, other)  
8 lengthening his sentences and time he is eligible for Parole.

9 As set forth in footnote 1, page 6, Petitioner has been unable  
10 to resolve these issues with the NDC and now files the instant  
11 petition.

12 Petitioner respectfully requests that the Respondent appear  
13 at a hearing at which the issue of improper time calculation can  
14 be resolved by requiring the NDC to produce the necessary  
15 facts, witnesses, documents, and other evidence, to allow  
16 a decision by this Honorable Court on the merits.

17 Petitioner also requests the assistance of counsel, as the  
18 issues raised are complex, discovery will be required, he  
19 is indigent, and otherwise meets the requirements of  
20 NRS 84.750.

WHEREFORE, petitioner prays that the court grant petitioner relief to which petitioner may be entitled in this proceeding.

EXECUTED at High Desert State Prison on the 4<sup>th</sup> day of the month of April, 2017.

[Signature]  
\* GERARDO PEREZ # 85726  
High Desert State Prison  
Post Office Box 650  
Indian Springs, Nevada 89070  
Petitioner in Proper Person

#### VERIFICATION

Under penalty of perjury, the undersigned declares that the undersigned is the petitioner named in the foregoing petition and knows the contents thereof, that the pleading is true of the undersigned's own knowledge, except as to those matters stated on information and belief, and as to such matters the undersigned believes them to be true.

[Signature]  
\* GERARDO PEREZ # 85726  
High Desert State Prison  
Post Office Box 650  
Indian Springs, Nevada 89070  
Petitioner in Proper Person

#### AFFIRMATION (Pursuant to NRS 239B.030)

The undersigned does hereby affirm that the preceeding PETITION FOR WRIT OF HABEAS CORPUS filed in District Court Case Number C200133 Does not contain the social security number of any person.

[Signature]  
\* GERARDO PEREZ # 85726  
High Desert State Prison  
Post Office Box 650  
Indian Springs, Nevada 89070  
Petitioner in Proper Person

#### CERTIFICATE OF SERVICE BY MAIL

I, GERARDO PEREZ, hereby certify pursuant to N.R.C.P. 5(b), that on this 4<sup>th</sup> day of the month of April, 2017, I mailed a true and correct copy of the foregoing PETITION FOR WRIT OF HABEAS CORPUS addressed to:

Brian Williams  
~~W. W. Williams~~, Warden High Desert State Prison  
Post Office Box 650  
Indian Springs, Nevada 89070

[Signature]  
Clark County District Attorney's Office  
200 Lewis Avenue  
Las Vegas, Nevada 89155

[Signature]  
\* GERARDO PEREZ # 85726  
High Desert State Prison  
Post Office Box 650  
Indian Springs, Nevada 89070  
Petitioner in Proper Person

Attorney General of Nevada  
100 North Carson Street  
Carson City, Nevada 89701

\* Print your name and NDOC back number and sign

April 4, 2017

GERARDO PEREZ #85726

H.D.S.P.

P.O. Box 650

INDIAN SPRINGS, NV 89070

Dear Clerk of Court,

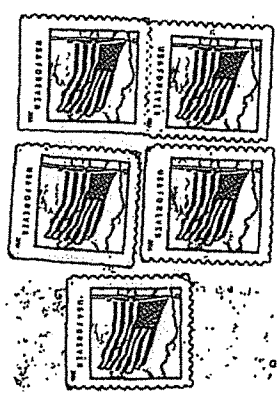
Would you please file the enclosed Time Computation Petition for Writ of Habeas Corpus (Post-Conviction) and In Forma Pauperis request and return Petitioner Copy filed-stamped dated to the mailing address listed above. Thank you in advance for your consideration.

Best regards,



GERARDO PEREZ #85726

Gerardo Perez #85726  
H.D.S.P.  
P.O. Box 650  
Indian Springs, NV 89070

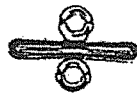


WEST STATE PRISON  
APR 05 2017  
JUL 7 AB

REGIONAL JUSTICE CENTER  
CLERK OF THE COURT  
200 LEWIS AVE, 3<sup>RD</sup> FLOOR.  
LAS VEGAS, NV 89155-1160

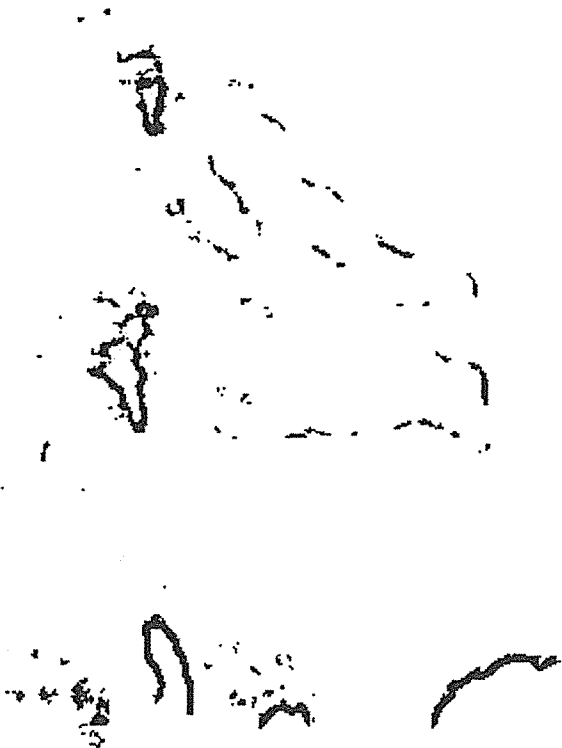
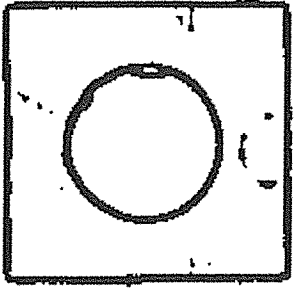
LEGAL MAIL

1. 1/11

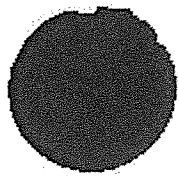


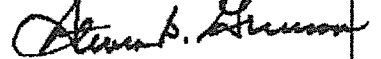
LEGAL

CPA D. R.









1 OPWH - AB510

2  
3  
4 DISTRICT COURT  
CLARK COUNTY, NEVADA

5 GERARDO PEREZ,

6 Petitioner(s),

Case No.: A-17-753832-W

7 vs.

Dept. No.: 7

8 BRIAN WILLIAMS, WARDEN HDSP,

9 Respondent(s).

10  
11 **ORDER FOR PETITION FOR WRIT OF HABEAS CORPUS**

12 Petitioner filed a Petition for Writ of Habeas Corpus on April 12, 2017. The Court  
13 has reviewed the Petition and has determined a response would assist the Court in  
14 determining whether Petitioner has been awarded all appropriate good-time credits as  
15 provided in Assembly Bill 510 and, good cause appearing therefore,

16 IT IS HEREBY ORDERED, Respondent shall, within 45 days after the date of this  
17 Order, Answer or otherwise respond to the Petition and file a return in accordance with the  
18 provisions set out in NRS 209.

19 IT IS FURTHER ORDERED, this matter shall be placed on calendar on **Thursday,**  
20 **SEPTEMBER 28, 2017 at 9:00 a.m.** in District Court Department 7, Courtroom 15A.

21  
22 DATED this 4th day of August, 2017.

23  
24  
25  
26   
27 LINDA MARIE BELL  
28 DISTRICT COURT JUDGE

HEARING DATE  
ALREADY ENTERED

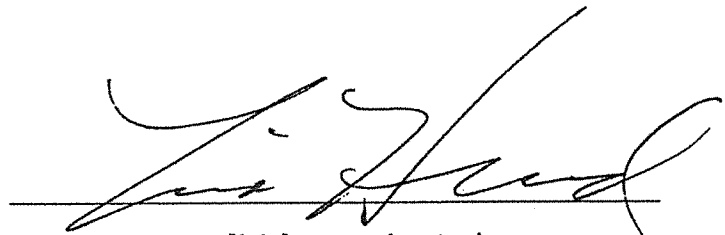
LINDA MARIE BELL  
DISTRICT JUDGE  
DEPARTMENT VII

CERTIFICATE OF SERVICE

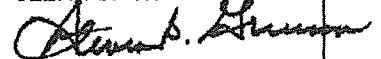
The undersigned hereby certifies that on the date of the filing, a copy of this Order was electronically served through the Eighth Judicial District Court EFP system or, if no e-mail was provided, by facsimile, U.S. Mail and/or placed in the Clerk's Office attorney folder(s) for:

Gerardo Perez #85726  
High Desert State Prison  
P.O. Box 650  
Indian Springs, NV 89070-0650

Office of the Attorney General  
Appellate Division  
555 E. Washington Ave., Suite 3900  
Las Vegas, NV 89101-1068



TINA HURD, Judicial Executive Assistant



1 BRET O. WHIPPLE, ESQ.  
Nevada Bar No. 6168  
2 JUSTICE LAW CENTER  
1100 S. Tenth Street  
3 Las Vegas, Nevada 89104  
(702) 731-0000  
4 Attorneys for Petitioner

5 IN EIGHTH JUDICIAL DISTRICT COURT  
6 COUNTY OF CLARK, STATE OF NEVADA

7 \* \* \* \* \*

8 GERARDO PEREZ,

9 Petitioner,

10 vs.

11 BRIAN WILLIAMS, Warden HDSP,

12 Respondent.

NOTICE OF APPEARANCE

CASE NO.: A-17-753832-W

Department Number: VII

13 COMES NOW, Bret O. Whipple, Esq., on behalf of the Petitioner, GERARDO PEREZ,  
14 and hereby enters his notice of appearance in the above captioned matter.

15 DATED this 19<sup>th</sup> day of September, 2017.

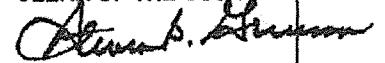
16 BRET O. WHIPPLE, ESQ.

17 /s/ Bret O. Whipple, Esq.

18 JUSTICE LAW CENTER

19 Justice Law Center

20 Bar No. 6168  
21  
22  
23



1 RSPN  
2 ADAM PAUL LAXALT  
3 Attorney General  
4 Jessica Perlick (Bar No. 13218)  
5 Deputy Attorney General  
6 State of Nevada  
7 Office of the Nevada Attorney General  
8 555 E. Washington Ave., Ste. 3900  
9 Las Vegas, Nevada 89101-1068  
10 (702) 486-3825 (phone)  
11 (702) 486-2377 (fax)  
12 JPerlick@ag.nv.gov  
13 Attorneys for Respondents

8 DISTRICT COURT  
9 CLARK COUNTY, NEVADA

10 GERARDO PEREZ,  
11 Petitioner,

12 vs.

13 JO GENTRY, WARDEN, et al.,  
14 Respondents.

Case No. A-17-753832-W  
Dept. No. VII

Date of Hearing: 09/28/2017  
Time of Hearing: 9:00 a.m.

15 **RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS**

16 Respondents oppose Petitioner Gerardo Perez's *Petition for Writ of Habeas Corpus*. The petition  
17 should be denied as the Nevada Department of Corrections (NDOC) has awarded Perez credit against his  
18 sentence in accordance with NRS 209.4465, as NRS 209.4465(7) and NRS 213.120 prohibit Perez from  
19 having credit applied to his minimum sentence or parole eligibility date.

20 This Response is made and based upon the papers and pleadings on file herein and the following  
21 points and authorities.

22 DATED September 26, 2017.

23 ADAM PAUL LAXALT  
24 Attorney General

25 By: /s/ Jessica Perlick  
26 Jessica Perlick (Bar No. 13218)  
27 Deputy Attorney General  
28

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I.

3 BACKGROUND

4 Petitioner Gerardo Perez is currently incarcerated in High Desert State Prison. *See* Exhibit 1,  
5 *Inmate Search*. Perez is serving a sentence arising out of criminal acts he committed on November 30,  
6 2003. *See* Exhibit 2, *Information*. On April 7, 2005, the Court adjudicated Perez Guilty of Second Degree  
7 Murder with Use of a Deadly Weapon, a category A felony. *See* Exhibit 3, *Judgment of Conviction*. The  
8 Court sentenced Perez to a maximum of twenty-five (25) years, with parole eligibility in ten (10) years,  
9 plus an equal and consecutive sentence for the deadly weapon enhancement. *Id.* Perez received three  
10 hundred ninety-two (392) days credit for time served. *Id.*

11 On December 18, 2013, Perez appeared before the Parole Board on the Murder portion of his  
12 sentence, and was paroled to his consecutive sentence on March 10, 2014. *See* Exhibit 4, *Parole Hearing*  
13 *Details*. Perez is actively serving the deadly weapon enhancement portion of his sentence. *See* Exhibit 5,  
14 *Offender Legal Orders*.<sup>1</sup>

15 II.

16 ARGUMENT

17 A. Perez is Not Entitled to Work Credits for Work He Has Not Actually Performed.

18 Perez alleges that NDOC is not applying work credits to his sentence, but he is incorrect. First,  
19 Perez has no constitutionally protected liberty interest in earning work/study credit. This Court must  
20 therefore deny his claim to the extent that he is seeking credit based upon work he was willing to perform  
21 but was not assigned. In Nevada, the statutes relating to work/study credits create only the possibility of  
22 earning an earlier release; they create no constitutionally protected liberty interest. Inmates must actually  
23 perform work or complete approved study programs to earn work/study credits. NDOC will award credits  
24 to Perez if he earns them, as it has in the past. *See* Exhibit 6, *Credit History* (showing work credits applied  
25 on multiple months).

26 ///

27  
28 <sup>1</sup> As Perez's petition challenges the computation of time he has served, rather than his judgment  
of conviction or sentence, Respondents do not address NRS 34.760.

1 To the extent Perez believes he is entitled to work credits because he is willing to work or attend  
2 educational programs, he fails to state a claim for which relief can be granted. Perez's request for work  
3 credit is governed by NRS 209.4465(2), which provides:

4 2. In addition to the credits allowed pursuant to subsection 1, the Director  
5 may allow not more than 10 days of credit each month for an offender  
6 whose diligence in labor and study merits such credits. In addition to the  
7 credits allowed pursuant to this subsection, an offender is entitled to the  
8 following credits for educational achievement:

- 9 (a) For earning a general educational development certificate, 60 days.
- 10 (b) For earning a high school diploma, 90 days.
- 11 (c) For earning his first associate degree, 120 days.

12 This statute provides for credit for work actually performed; however, unlike section 1 of the statute,  
13 which provides for mandatory credit, work credit is discretionary. Consequently, Perez has no  
14 constitutionally protected liberty interest in work credits, even when he is able to work but no work is  
15 available. *See Kalka v. Vasquez*, 867 F.2d 546, 547 (9th Cir. 1989); *Toussaint v. McCarthy*, 801 F.2d  
16 1080, 1094-95 (9th Cir. 1986). Perez claims only that he is entitled to work credit; not that he actually  
17 performed or completed work or study and did not receive credit.

18 In addition, this Court should dismiss Perez's claim that his civil rights were violated because he  
19 had no opportunity to work and earn work-time credits. *See Greenholtz v. Inmates of the Nebraska Penal*  
20 *and Correctional Complex*, 442 U.S. 1, 8-11, 99 S.Ct. 2100, 2104-06 (1979); *Toussaint v. McCarthy*,  
21 801 F.2d 1080, 1095 (9th Cir.1986); *Cooper v. Sumner*, 672 F. Supp. 1361, 1367 (D. Nev. 1987). In  
22 *Cooper*, Nevada's federal district court dismissed just such a claim, finding as follows:

23 This claim is frivolous under *Franklin*. Plaintiff currently earns Statutory  
24 Good Time credit. NRS 209.433(1). Further, there is no protectable liberty  
25 interest in earning Work Time credit. Both NRS § 209.433(3) and NDOP  
26 Administrative Regulation 714(III) make the granting of Work Time credit  
27 discretionary. In sum, Nevada law merely creates a possibility of early  
28 release through the earning of Work Time Credit; it does not create a  
constitutionally protected liberty interest.

*Cooper*, 672 F. Supp. at 1367. Perez's claim is likewise frivolous and must be dismissed.

///

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1 **B. The Plain Language of NRS 209.4465(7)(b) Precludes NDOC from Applying Good-Time**  
2 **Credits to Perez's Minimum Sentence.**

3 Perez is not eligible for good-time credits to be applied to his minimum sentence because he was  
4 sentenced pursuant to statutes specifying minimum sentences that must be served before parole  
5 eligibility. In 2003, when Perez committed his offenses, NRS 209.4465(7) stated:

6 Credits earned pursuant to this section:

7 (a) Must be deducted from the maximum term imposed by the sentence;  
8 and

9 (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.

10 2003 Nev. Stat., ch. 2 § 24 at 29 (emphasis added). This statute must be given its "plain meaning" when  
11 applied to Perez. *McKay v. Board of Sup'rs of Carson City*, 102 Nev. 644, 648, 730 P.2d 438, 441 (1986).

12 At the time of Perez's offense, NRS 213.120, which specifically addresses when a prisoner  
13 becomes eligible for parole, highlighted the significance of the minimum term, stating an offender "may  
14 be paroled when he has served the minimum term of imprisonment imposed by the court." 1995 Nev.  
15 Stat., ch. 1259 § 235 at 1259-60. Additionally, NRS 213.120 mandated that any credits earned to reduce  
16 a prisoner's sentence pursuant to NRS chapter 209, while the prisoner serves the minimum term of  
17 imprisonment, may reduce only the maximum term of imprisonment imposed and must not reduce the  
18 minimum term of imprisonment. *Id.* Accordingly, any statute designating a "minimum term" of  
19 imprisonment inherently sets the minimum sentence an offender must serve before becoming parole  
20 eligible. *Id.*; NRS 209.4465(7)(b). Pursuant to the statute that is applicable to Perez's sentence, the  
21 minimum term of a minimum-maximum sentence is the "minimum sentence that must be served before  
22 a person becomes eligible for parole." NRS 209.4465(7)(b) (emphasis added); *see also Cromer v.*  
23 *Nicholson*, 126 Nev. 106, 110, 225 P.3d 788, 790 (2010) (stating that courts have a duty to "construe  
24 statutes as a whole, so that all provisions are considered together and, to the extent practicable, reconciled  
25 and harmonized").

26 Perez was prosecuted under statutes that require that he serve a minimum term. Accordingly, the  
27 exception carved out in NRS 209.4465(7)(b) applies to Perez's sentence, and NDOC is prohibited from  
28 utilizing good-time credits to Perez's minimum term. *See* NRS 209.4465(7)(b).



1 C. **Even if NRS 209.4465(7)(b) Were Not Clear on Its Face, the Legislative History and Intent**  
2 **Preclude Perez's Requested Relief.**

3 Perez's petition, like the flood of similar petitions filed in this and other courts in this state, are  
4 the result of an unpublished Nevada Supreme Court order filed in *Vonseydewitz v. LeGrand*, Case No.  
5 66159, 2015 WL 3936827 (Nev. June 24, 2015). Unpublished orders issued prior to January 1, 2016,  
6 should not be relied upon as either persuasive or mandatory precedent.<sup>2</sup> While *Vonseydewitz* is neither  
7 binding nor properly cited as persuasive authority, in the interest of assisting the Court, Respondents  
8 nevertheless address it below.

9 1. **Statutory History Does Not Support the Application of *Vonseydewitz* Here.**

10 Between 1967 and 1995, Nevada law generally provided for determinate sentences in felony  
11 cases. *See* 1967 Nev. Stat., ch. 211 § 2, at 458-59; 199 Nev. Stat., ch. 443, § 1, at 1167-68. These statutes  
12 imposed a single term of imprisonment, and parole eligibility was based upon serving a specified  
13 percentage of that term. *See* NRS 213.120(1). During this same period of time, some statutes imposed  
14 sentences with a maximum term and stated a minimum term of years that must be served before an  
15 offender became eligible for parole. Respondents will refer to these as "parole-eligibility" statutes.  
16 Inmates sentenced under these statutes were not eligible for parole until they served their minimum  
17 sentence.

18 In 1981, the Nevada Supreme Court decided that inmates serving "parole-eligibility" sentences  
19 were entitled to apply good time credits against their minimum sentences for the purpose of parole  
20 eligibility. *Demosthenes v. Williams*, 97 Nev. 611, 637 P.2d 1203 (1981). In response, in 1983 the  
21 Legislature amended NRS 209.443, adding language similar to the language now found in NRS  
22 209.4465(7)(b). *See* 1983 Nev. Stat., ch. 158, § 1, at 360-61 ("Good time does not apply to eligibility for  
23 parole if a statute specifies a minimum sentence that must be served before a person becomes eligible for  
24

25  
26 <sup>2</sup> An unpublished decision should not be relied upon as binding precedent. *See, e.g.* Nevada Rule  
27 of Appellate Procedure (NRAP) 36(c)(2)-(3). While the Nevada Supreme Court recently amended Rule  
28 123 to allow for the citation of unpublished opinions, the amendment only applied to orders entered on  
or after January 1, 2016. (*See Order Amending Nevada Rule of Appellate Procedure 36 and Repealing  
Supreme Court Rule 123*, ADKT 0504 (S.Ct. Nev. Nov 12, 2015)). The amendment does not apply to the  
*Vonseydewitz* opinion, which the Nevada Supreme Court issued on June 24, 2015.

1 parole.”). This Legislature intended this language to abrogate *Demosthenes* and prevent inmates serving  
2 “parole eligibility” sentences from receiving credit towards their minimum terms.

3 In 1995, the Nevada Legislature passed SB 416 as part of the “truth-in-sentencing” movement.  
4 1995 Nev. Stat., ch. 443, at 1167. That bill replaced Nevada’s determinate sentencing statutes with  
5 sentencing statutes that we have now, which include both a minimum term and a maximum term.<sup>3</sup> 1995  
6 Nev. Stat., ch. 443, § 1 at 1167-68. In passing SB 416, the Legislature expressed its intention to “require  
7 prisoners to serve the minimum term of imprisonment imposed by their sentence before becoming  
8 eligible for parole.” 1995 Nev. Stat., ch. 443, at 1167. To accomplish this, SB 416 also amended NRS  
9 213.120 to require that “any credits earned to reduce [a prisoner’s] sentence pursuant to chapter 209 of  
10 NRS while the prisoner serves the minimum term of imprisonment may reduce only the maximum term  
11 of imprisonment imposed and must not reduce the minimum term of imprisonment.” 1995 Nev. Stat., ch.  
12 443, § 235, at 1260-61. Accordingly, as of 1995, Nevada laws did not permit any Nevada inmate to  
13 apply statutory credits towards his or her minimum term.<sup>4</sup>

14 This remained true until 2007, when the Nevada legislature passed AB 510, and provided that  
15 “certain credits to the sentence of an offender convicted of certain category C, D, or E felonies must be  
16 deducted from the minimum term imposed by the sentence until the offender becomes eligible for  
17 parole.” 2007 Nev. Stat., ch. 525, Legislative Counsel’s Digest, at 3171. AB 510, including the addition  
18 of NRS 209.4465(8), allowed good-time credits earned by some categories of felons with both minimum  
19 and maximum sentences to be applied to their parole eligibility for the first time since 1983, but  
20 maintained the status quo for the remainder, such as Perez. In other words, the Legislature changed the  
21 previous law – which states that no inmate could subtract good-time credits from his minimum term to  
22 accelerate his parole eligibility date – to allow only C, D and E felons to subtract good-time credits from  
23 their minimum sentence.

24  
25  
26 <sup>3</sup> Respondent will refer to these statutes as “minimum-maximum” sentencing statutes.

27 <sup>4</sup> As discussed above, there is no functional difference between a parole-eligibility sentence and  
28 a minimum-maximum sentence. The supposed differences in the statutes are only in their phrasing. Both  
types of sentences include a minimum that must be served before the prisoner is eligible for parole and a  
maximum that must be served before the sentence expires.

1 Throughout all of these changes to the sentencing statutes, the statutory language adopted in 1983  
2 to distinguish between “determinate” and “parole-eligibility” sentencing statutes was carried over into  
3 each new version of the credits statutes and remains in those statutes to this day. *See* 1983 Nev. Stat., ch.  
4 158 § 1, at 360-61 (adding the provision to NRS 209.443); 1985 Nev. Stat., ch. 615, § 1 at 1924-25  
5 (creating NRS 209.446 with the same provision); 1997 Nev. Stat., ch. 641, § 4, at 3175 (creating NRS  
6 209.4465 with the same provision); 2007 Nev. Stat., ch. 525, §5 at 3177 (amending NRS 209.4465 but  
7 keeping the provision intact); NRS 209.4465(7) (current statute). When viewed in its historical context,  
8 it is clear that the purpose of the language was to prevent the application of statutory credits to the  
9 minimum sentences of Nevada prisoners. This is even clearer when analyzing NRS 209.4465 in  
10 conjunction with NRS 213.120, as those statutes read prior to AB 510, when Perez committed his  
11 offenses. *See* 1995 Nev. Stat., ch. 443, § 235, at 1259-60. The legislature specifically acknowledged the  
12 credits provisions of NRS chapter 209 before stating those very credits “must not reduce the minimum  
13 term of imprisonment.” *Id.* The statutory scheme between 1995 and 2007 simply did not permit felons  
14 sentenced to both a maximum and a minimum term to apply their good-time credits to their minimum  
15 terms. *See Breault v. State*, 116 Nev. 311, 314, 996 P.2d 888, 889 (2000) (Under NRS 213.120, “credits  
16 earned to reduce [a prisoner’s] sentence pursuant to NRS chapter 209 may only reduce the maximum  
17 term.”).

18 **2. The *Vonseydewitz* Decision Ignores Legislative Intent.**

19 A panel of the Nevada Supreme Court reached a different conclusion in the unpublished order for  
20 *Vonseydewitz v. LeGrand*, 2015 WL 3936827 (Nev. May 24, 2015). The panel reasoned that if the  
21 language of the exception in NRS 209.4465(7)(b) was interpreted in the way that it was originally  
22 intended, it would become meaningless because Nevada no longer has determinate sentences. *Id.* The  
23 panel read it differently and concluded that it instead distinguishes between “parole-eligibility” statutes  
24 and “minimum-maximum” statutes. *Id.*

25 The legal conclusions and outcome in *Vonseydewitz* directly conflict with an earlier 2014  
26 unpublished opinion by another panel. *See Kille v. Cox*, 2014 WL 4670217 (Nev. Sept. 18, 2014). The  
27 *Kille* panel based its decision on its conclusion that “[I]n 2003, existing statutes did not permit the NDOC  
28 to apply credits to appellant’s minimum terms.”

1 Although courts will avoid rendering a provision nugatory, “it is the duty of [courts], when  
2 possible, to interpret provisions within a common statutory scheme ‘harmoniously with one another in  
3 accordance with the general purpose of those statutes’ and to avoid unreasonable or absurd results,  
4 thereby giving effect to the Legislature’s intent.” *Southern Nevada Homebuilder’s Ass’n v. Clark County*,  
5 121 Nev. 446, 449, 117 P.3d 171, 173 (2005). As explained in the statutory history, the language in NRS  
6 209.4465(7)(b) was added to the credits statutes in the early 1980s, prior to the creation of minimum-  
7 maximum sentences, in order to abrogate *Demosthenes v. Williams*, 97 Nev. 611, 637 P.2d 1203 (1981).  
8 It was intended to differentiate between statutes providing for determinate sentences and sentences that  
9 imposed [x] years in custody with parole eligibility after [y] years have been served. *Id.* The Legislature  
10 then carried the language into every version of the credits statutes enacted since 1983, even though  
11 determinate sentences, with the exception of life sentences, ceased to exist after 1995. NRS 193.130;  
12 NRS 209.446; NRS 209.4465. The *Vonseydewitz* panel’s attempt to avoid nugatory language by  
13 constructing a new meaning for NRS 209.4465(7)(b) only frustrated the well-understood and  
14 acknowledged intent of the Nevada Legislature.

15 In 1995, SB 416 created minimum-maximum sentence structures, provided that the minimums  
16 determined parole eligibility and that credits earned pursuant to NRS Chapter 209 did not apply to the  
17 minimum term of imprisonment, and left intact the 1983 language currently found in NRS  
18 209.4465(7)(b). This indicates that the Legislature intended that language to apply to the new minimum-  
19 maximum statutes the same way it had been applied to “parole eligibility” statutes immediately following  
20 its original enactment. It is possible the Legislature preserved the language to address any determinate  
21 sentencing statutes that remained on the books or were potentially created in the future.

22 Where, as here, the legislative intent is apparent and the effort to give meaning to every portion  
23 of a statute frustrates that intent, and creates conflicts between statutes that would not otherwise exist,  
24 Nevada case law requires this Court interpret the statute in a way that maintains harmony and gives effect  
25 to legislative intent. *See Sanchez-Dominguez v. State*, 130 Nev. Adv. Op. 10, 318 P.3d 1068, 1074 (2014)  
26 (stating that it is a “well-established rule that statutory construction must not defeat the purpose of a  
27 statute”); *State v. Lucero*, 127 Nev. \_\_\_, \_\_\_, 249 P.3d 1226, 1228 (2011) (“When interpreting a  
28 statute, legislative intent “is the controlling factor,”” (quoting *Robert E. v. Justice Court*, 99 Nev. 443,

1 445, 664 P.2d 957, 959 (1983)); *Savage v. Pierson*, 123 Nev. 86, 95, 157 P.3d 967, 703 (2007)  
2 (interpreting statutory provision to create redundancy because that was the legislative intent); *Southern*  
3 *Nevada Homebuilder's Ass'n*, 121 Nev. at 449, 117 P.3d at 173; *see also Bob Jones University v. U.S.*,  
4 461 U.S. 574, 586 (1983) ("It is a well-established canon of statutory construction that a court should go  
5 beyond the literal language of a statute if reliance on that language would defeat the plain purpose of the  
6 statute.").

7 Indeed, courts have explained repeatedly that the purpose of the rules of statutory construction is  
8 to discern the intent of the enacting legislative body. *See Albernaz v. U.S.*, 450 U.S. 333, 340 (1981);  
9 *U.S. v. Chambers*, 985 F.2d 1263, 1273 (4th Cir. 1993).

### 10 III.

### 11 CONCLUSION

12 Perez has no protectable liberty interest in earning work-time credits. Moreover, a plain language  
13 reading of NRS 209.4465(7) and NRS 213.120 requires denying Perez's claim for good-time credits to  
14 be applied to the minimum term of his sentence. Principles of statutory construction, including discerning  
15 legislative intent, provide further support for this position. Therefore, for the reasons stated above, this  
16 Court should dismiss Perez's petition for writ of habeas corpus.

17 Respectfully submitted September 26, 2017.

18 ADAM PAUL LAXALT  
19 Attorney General

20 By: /s/ Jessica Perlick  
21 Jessica Perlick (Bar. No. 13218)  
22 Deputy Attorney General  
23  
24  
25  
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28

**AFFIRMATION**  
**(Pursuant to NRS 239B.030)**

The undersigned does hereby affirm that the foregoing document does not contain the social security number of any person.

Dated: September 26, 2017.

ADAM PAUL LAXALT  
Attorney General

By: /s/ Jessica Perlick  
Jessica Perlick (Bar No. 13218)  
Deputy Attorney General

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I certify that some of the participants in the case are not registered electronic filing system users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following unregistered participant(s) at his last known address:

Gerardo Perez, #85726  
High Desert State Prison  
P.O. Box 650  
Indian Springs, NV 89070-0650

/s/ J. Ross  
An employee of the Office of the Attorney General

# Exhibit 1

## Inmate Search



## Search By Offender ID

Offender ID: 85726

-or-

## Search By Demographics

First Name: Wildcard %

Last Name: Wildcard %

Submit

## NOTICE:

The information provided here represents raw data. As such, the Nevada Department of Corrections makes no warranty or guarantee that the data is error free. The information should not be used as an official record by any law enforcement agency or any other entity.

Any questions regarding an inmate, please call Family Services at (775) 887-3367. Victims looking for inmate information please contact Victim Services at (775) 887-3393. Any questions regarding the web portal for law enforcement access to inmate information should be referred to PIO Brooke Keast. email: bkeast@doc.nv.gov or (775) 887-3309

Currently the following web browsers are supported for the Inmate Search: Internet Explorer 11, Chrome, Firefox and Opera. If you are unable to view inmate photos, please use a supported browser.

[Download Offender Data](#)

[Demographic, Alias, Booking, Parole, Release](#)

Up to date as of 2017-09-21

## Identification and Demographics

Name	Offender ID	Gender	Ethnic	Age	Height	Weight	Build	Complexion	Hair	Eyes	Institution	Custody Level	Aliases	Prior Felonies
GERARDO L PEREZ	85726	Male	HISPANIC	29	5'6"	175lb	LARGE	DARK	BLACK	BROWN	HIGH DESERT STATE PRISON	MEDIUM	VAGO, PEREZ GERARDO, SHADOW, PEREZ GERERDO, LALO PEREZ GERARDO	NO

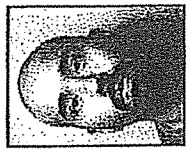
## Booking Information

Offense Code	Offense Description	Sent. Status	Sent. Min	Sent. Max	Sent. PED	Sent. MPR	Sent. County	Sent. PEXD	Sent. Type	Sent. RRD	Sent. Start Date
94	MURDER 2ND DEGREE	Parole to Consecutive	0 yr. 120 mo. 0 days	0 yr. 300 mo. 0 days	2014-03-10		CLARK COUNTY COURTHOUSE	2018-09-09	DETERMINE		2004-03-11
3458	USE OF DEADLY WEAPON ENHANCEMENT	Active	0 yr. 120 mo. 0 days	0 yr. 300 mo. 0 days	2024-03-10	2026-05-05	CLARK COUNTY COURTHOUSE	2026-11-06	DETERMINE		2014-03-11

Inmate Photo

Parole Hearing Details

NDOC Inmate Search



Offender Book ID    Parole Hearing Date    Parole Hearing Location  
64225                    2013-12-18                    PAROLE BOARD ROOM 301

# Exhibit 2

## Information

ORIGINAL

2

1 INFO  
2 DAVID ROGER  
3 Clark County District Attorney  
4 Nevada Bar #002781  
5 THOMAS J. MOREO  
6 Chief Deputy District Attorney  
7 Nevada Bar #002415  
8 200 South Third Street  
9 Las Vegas, Nevada 89155-2211  
10 (702) 455-4711  
11 Attorney for Plaintiff

FILE

MAR 31 10 53 AM '04

*Shirley L. Langina*  
CLERK

7 I.A. 04-06-04  
8 9:00 A.M.  
9 PD  
DISTRICT COURT  
CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,  
11 Plaintiff,

12 -vs-

13 GERARDO LALO PEREZ,  
14 #1939932  
15 Defendant.

Case No:  
Dept No:

C 200133  
II

INFORMATION

16 STATE OF NEVADA }  
17 COUNTY OF CLARK } ss.

18 DAVID ROGER, District Attorney within and for the County of Clark, State of  
19 Nevada, in the name and by the authority of the State of Nevada, informs the Court:

20 That GERARDO LALO PEREZ, the Defendant(s) above named, having committed  
21 the crime of SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON  
22 (Felony - NRS 200.010, 200.030, 193.165), on or about the 30th day of November, 2003,  
23 within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes  
in such cases made and provided, and against the peace and dignity of the State of Nevada,  
did then and there wilfully, feloniously, without authority of law, and with malice

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///

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1   aforethought, kill CARLOS RIOS, a human being, by said Defendant shooting at and into  
2   the body of the said CARLOS RIOS, with a deadly weapon, to-wit: a firearm.

3                                   DAVID ROGER  
4                                   DISTRICT ATTORNEY  
5                                   Nevada Bar #002781

6                                   BY

7                                   THOMAS J. MOREO  
8                                   Chief Deputy District Attorney  
9                                   Nevada Bar #002415

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27   LVMPD EV#0311300113  
28   2ND DEG MURDER W/W - F  
    (TK2)

# Exhibit 3

## Judgment of Conviction

7

1 JOC  
2 DAVID ROGER  
3 Clark County District Attorney  
4 Nevada Bar #002781  
5 200 South Third Street  
6 Las Vegas, Nevada 89155-2212  
7 (702) 455-4711  
8 Attorney for Plaintiff

FILED

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*[Signature]*  
CLERK

DISTRICT COURT  
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,  
9 Plaintiff,  
10 -vs-  
11 GERARDO LALO PEREZ,  
12 #1939932  
13 Defendant.

Case No: C200133  
Dept No: II

JUDGMENT OF CONVICTION  
(PLEA OF GUILTY)

16 The Defendant previously appeared before the Court with counsel and entered a plea  
17 of guilty to the crime(s) of SECOND DEGREE MURDER WITH USE OF A DEADLY  
18 WEAPON (Category A Felony), in violation of NRS 200.010, 200.030, 193.165; thereafter,  
19 on the 7th day of April, 2005, the Defendant was present in court for sentencing with his  
20 counsel, RANDALL H. PIKE, Special Public Defender, and good cause appearing,

21 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in  
22 addition to the \$25.00 Administrative Assessment Fee, a \$150.00 DNA Analysis Fee and  
23 Defendant to submit to a blood and/or saliva test to determine genetic markers or secretor  
24 status, the Defendant is sentenced as follows: to a maximum of twenty-five (25) years with  
25 parole eligibility in ten (10) years in the Nevada Department of Corrections, plus an equal  
26 and consecutive maximum of twenty-five (25) years with a parole eligibility in ten (10) years  
27 in the Nevada Department of Corrections for Use of a Deadly Weapon. Defendant to pay  
28 restitution of \$2,500.00 as follows: \$2,500.00 to the State of Nevada Victims of Crimes;

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CLERK



APR 11 2005

COUNTY CLERK

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1 \$4,500.00 to Carlos Rios and Riolita Rios for funeral expenses; \$235.73 to the State of  
2 Nevada for Extradition fees. Defendant to receive three hundred ninety-two (392) days  
3 credit for time served.

4 DATED this 12<sup>th</sup> day of April, 2005.

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7 DISTRICT JUDGE  

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# Exhibit 4

## Parole Hearing Details

HEARING DETAILS - (OIDHEARD)

ID#	Last Name		Given Name 1 (First)	Given Name 2	Suffix	DOB	Alerts
0000085726	PEREZ		GERARDO			05/10/1988	
BK#	[Facility]		Status				
085726	HDSP-U7-D-12-B1LAUNDRY : NC		ACTIVE-IN				
			Classification		Medium		



Hearing Details

Sch. Date	Hear. Date*	Time*	Hear. Type*	Hear. Loc.*	Elig. Date	Action	Next Date	Risk Assess.	GR	Report
12/18/2013	12/18/2013	09:29	Discretionary	PAROLE BO	03/11/2014	RP-G: G	03/10/2014	12/11/2013	FACTOR	Order

Sent Details

Panel Members

Votes

Comments

Case Notes

CS

A	Case #	Ln#	Ln #	Cnt	Sent. Date	Retro Date	Max Term	Min Term	PED	MPR	PEXD	Status	C	cc
<input checked="" type="checkbox"/>	200133	2		1	04/07/2005	03/11/2004	0Y 300M	0Y 120M	03/10/2014		09/09/2018	Paroled to	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	200133	1	2	1	04/07/2005	03/11/2014	0Y 300M	0Y 120M	03/10/2024	05/05/2026	11/06/2026	Active	<input type="checkbox"/>	
<input type="checkbox"/>													<input type="checkbox"/>	
<input type="checkbox"/>													<input type="checkbox"/>	
<input type="checkbox"/>													<input type="checkbox"/>	
<input type="checkbox"/>													<input type="checkbox"/>	

Statute	Offense	Description	Type	Offense Date	SM	Comment Text
200.030.5	94	MURDER 2ND DEGREE	CAT_A	11/30/2003		

My Offenders

My Work

My Calendar

Offender Updates

Offender Detail

# Exhibit 5

## Offender Legal Orders



State of Nevada  
Department of Corrections  
OFFENDER LEGAL ORDERS

PEREZ, GERARDO L 85726

Next Parole Expiration Date(NPD):

RECOMMENDED RELEASE DATE:

C#	SENTENCE DATE	RETRO DATE	OFFENSE DESCRIPTION	COUNT	SENTENCE SEQ	SENTENCE CONSECUTIVE TO	MINIMUM	MAXIMUM	LIFE	STATUS	STATUS DATE	PED	PEXO	MPD
C# 200133	04072005	03112014	3453 USE OF DEADLY WEAPON	1	1	2	0Y 12M 00	0Y 30M 00		A		03102024	11662026	09052026
C# 200133	04072005	03112004	94 MURDER 2ND DEGREE	1	2		0Y 12M 00	0Y 30M 00		PTC	03112014	03102014	09092018	

SENTENCE STATUS	
A	Active
D	Discharged
DCS	Discharge to Consueive
DP	Paroled
I	Inactive
OT	Overturned
P	Pending
P207	P207
PTC	Parole to Consueive
REACT	Reactivated
SUSP	Suspended

# Exhibit 6

## Credit History



State of Nevada  
Department of Corrections  
Credit History by Sentence

MAX Term

Offender: PEREZ, GERARDO - 0000085726

Sentence: 1

Count: 1

Current Earned Expiration Date: 11/25/2035

Case	Sentence Dt	JC	Retro Dt	MAX Term	Days Owed	PED	PEXD	Status
200133	03/11/2014	0		0y 300m	9131	03/10/2024	11/06/2026	A

From Date	To Date	Adjust Code	Adjust Days	Comments	Days Remaining
03/01/2014	03/31/2014	WORK	0	Projected Credits not Earned on 04/11/2014 02:45:55	9131
03/11/2014	03/31/2014	FLAT	21	No Comment	9110
03/11/2014	03/31/2014	STAT	14	No Comment	9096
04/01/2014	04/30/2014	FLAT	30	No Comment	9066
04/01/2014	04/30/2014	STAT	20	No Comment	9046
04/01/2014	04/30/2014	WORK	1	Projected Credits not Earned on 05/11/2014 02:45:	9045
05/01/2014	05/31/2014	FLAT	31	No Comment	9014
05/01/2014	05/31/2014	STAT	20	No Comment	8994
05/01/2014	05/31/2014	WORK	10	Projected Credits not Earned on 06/11/2014 02:47:	8984
06/01/2014	06/30/2014	FLAT	30	No Comment	8954
06/01/2014	06/30/2014	STAT	20	No Comment	8934
06/01/2014	06/30/2014	WORK	10	Projected Credits not Earned on 07/11/2014 02:45:	8924
07/01/2014	07/31/2014	FLAT	31	No Comment	8893
07/01/2014	07/31/2014	STAT	20	No Comment	8873
07/01/2014	07/31/2014	WORK	10	Projected Credits not Earned on 08/11/2014 02:45:	8863
08/01/2014	08/31/2014	FLAT	31	No Comment	8832
08/01/2014	08/31/2014	STAT	20	No Comment	8812
08/01/2014	08/31/2014	WORK	10	09/02/2014 Offender Specific - 10	8802
09/01/2014	09/30/2014	FLAT	30	No Comment	8772
09/01/2014	09/30/2014	STAT	20	No Comment	8752
09/01/2014	09/30/2014	WORK	10	No Comment	8742
10/01/2014	10/31/2014	FLAT	31	No Comment	8711
10/01/2014	10/31/2014	STAT	20	No Comment	8691
10/01/2014	10/31/2014	WORK	10	No Comment	8681
11/01/2014	11/30/2014	FLAT	30	No Comment	8651
11/01/2014	11/30/2014	STAT	20	No Comment	8631
11/01/2014	11/30/2014	WORK	8	No Comment	8623
12/01/2014	12/31/2014	FLAT	31	No Comment	8592
12/01/2014	12/31/2014	STAT	20	No Comment	8572
12/01/2014	12/31/2014	WORK	10	No Comment	8562
01/01/2015	01/31/2015	FLAT	31	No Comment	8531
01/01/2015	01/31/2015	STAT	20	No Comment	8511
01/01/2015	01/31/2015	WORK	8	No Comment	8503
02/01/2015	02/28/2015	FLAT	28	No Comment	8475
02/01/2015	02/28/2015	STAT	20	No Comment	8455
02/01/2015	02/28/2015	WORK	8	No Comment	8447
03/01/2015	03/31/2015	FLAT	31	No Comment	8416

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Offender: PEREZ, GERARDO - 0000085726

Sentence: 1

Count: 1

Current Earned Expiration Date: 11/25/2035

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200133	03/11/2014	0		0y 300m	9131	03/10/2024	11/06/2026	A

From Date	To Date	Adjust Code	Adjust Days	Comments	Days Remaining
03/01/2015	03/31/2015	STAT	20	No Comment	8396
03/01/2015	03/31/2015	WORK	8	No Comment	8388
04/01/2015	04/30/2015	FLAT	30	No Comment	8358
04/01/2015	04/30/2015	STAT	20	No Comment	8338
04/01/2015	04/30/2015	WORK	10	No Comment	8328
05/01/2015	05/31/2015	FLAT	31	No Comment	8297
05/01/2015	05/31/2015	STAT	20	No Comment	8277
05/01/2015	05/31/2015	WORK	10	No Comment	8267
06/01/2015	06/30/2015	FLAT	30	No Comment	8237
06/01/2015	06/30/2015	STAT	20	No Comment	8217
06/01/2015	06/30/2015	WORK	10	No Comment	8207
07/01/2015	07/31/2015	FLAT	31	No Comment	8176
07/01/2015	07/31/2015	STAT	20	No Comment	8156
07/01/2015	07/31/2015	WORK	10	No Comment	8146
08/01/2015	08/31/2015	FLAT	31	No Comment	8115
08/01/2015	08/31/2015	STAT	20	No Comment	8095
08/01/2015	08/31/2015	WORK	10	Reduction for not working	8085
09/01/2015	09/30/2015	FLAT	30	No Comment	8055
09/01/2015	09/30/2015	STAT	20	No Comment	8035
09/01/2015	09/30/2015	WORK	6	No Comment	8029
10/01/2015	10/31/2015	FLAT	31	No Comment	7998
10/01/2015	10/31/2015	STAT	20	No Comment	7978
10/01/2015	10/31/2015	WORK	10	Reduction for not working	7968
11/01/2015	11/30/2015	FLAT	30	No Comment	7938
11/01/2015	11/30/2015	STAT	20	No Comment	7918
11/01/2015	11/30/2015	WORK	0	Reduction for not working	7918
12/01/2015	12/31/2015	FLAT	31	No Comment	7887
12/01/2015	12/31/2015	STAT	20	No Comment	7867
12/01/2015	12/31/2015	WORK	10	No Comment	7857
01/01/2016	01/31/2016	FLAT	31	No Comment	7826
01/01/2016	01/31/2016	STAT	20	No Comment	7806
01/01/2016	01/31/2016	WORK	10	No Comment	7796
02/01/2016	02/29/2016	FLAT	29	No Comment	7767
02/01/2016	02/29/2016	STAT	20	No Comment	7747
02/01/2016	02/29/2016	WORK	10	Reduction for not working	7737
03/01/2016	03/31/2016	FLAT	31	No Comment	7706
03/01/2016	03/31/2016	STAT	20	No Comment	7686
03/01/2016	03/31/2016	WORK	8	No Comment	7678
04/01/2016	04/30/2016	FLAT	30	No Comment	7648
04/01/2016	04/30/2016	STAT	20	No Comment	7628
04/01/2016	04/30/2016	WORK	10	No Comment	7618
05/01/2016	05/31/2016	FLAT	31	No Comment	7587
05/01/2016	05/31/2016	STAT	20	No Comment	7567

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200133	03/11/2014	0		0y 300m	9131	03/10/2024	11/06/2026	A

From Date	To Date	Adjust Code	Adjust Days	Comments	Days Remaining
05/01/2016	05/31/2016	WORK	10	Reduction for not working	7557
06/01/2016	06/30/2016	FLAT	30	No Comment	7527
06/01/2016	06/30/2016	STAT	20	No Comment	7507
06/01/2016	06/30/2016	WORK	10	Reduction for not working	7497
07/01/2016	07/31/2016	FLAT	31	No Comment	7466
07/01/2016	07/31/2016	STAT	20	No Comment	7446
07/01/2016	07/31/2016	WORK	8	No Comment	7438
08/01/2016	08/31/2016	FLAT	31	No Comment	7407
08/01/2016	08/31/2016	STAT	20	No Comment	7387
08/01/2016	08/31/2016	WORK	10	No Comment	7377
09/01/2016	09/30/2016	FLAT	30	No Comment	7347
09/01/2016	09/30/2016	STAT	20	No Comment	7327
09/01/2016	09/30/2016	WORK	10	No Comment	7317
10/01/2016	10/31/2016	FLAT	31	No Comment	7286
10/01/2016	10/31/2016	STAT	20	No Comment	7266
10/01/2016	10/31/2016	WORK	8	No Comment	7258
11/01/2016	11/30/2016	FLAT	30	No Comment	7228
11/01/2016	11/30/2016	STAT	20	No Comment	7208
11/01/2016	11/30/2016	WORK	8	No Comment	7200
12/01/2016	12/31/2016	FLAT	31	No Comment	7169
12/01/2016	12/31/2016	STAT	20	No Comment	7149
12/01/2016	12/31/2016	WORK	8	No Comment	7141
01/01/2017	01/31/2017	FLAT	31	No Comment	7110
01/01/2017	01/31/2017	STAT	20	No Comment	7090
01/01/2017	01/31/2017	WORK	10	No Comment	7080
02/01/2017	02/28/2017	FLAT	28	No Comment	7052
02/01/2017	02/28/2017	STAT	20	No Comment	7032
02/01/2017	02/28/2017	WORK	10	No Comment	7022
03/01/2017	03/31/2017	FLAT	31	No Comment	6991
03/01/2017	03/31/2017	STAT	20	No Comment	6971
03/01/2017	03/31/2017	WORK	10	No Comment	6961
04/01/2017	04/30/2017	FLAT	30	No Comment	6931
04/01/2017	04/30/2017	STAT	20	No Comment	6911
04/01/2017	04/30/2017	WORK	10	No Comment	6901
05/01/2017	05/31/2017	FLAT	31	No Comment	6870
05/01/2017	05/31/2017	STAT	20	No Comment	6850
05/01/2017	05/31/2017	WORK	10	No Comment	6840
06/01/2017	06/30/2017	FLAT	30	No Comment	6810
06/01/2017	06/30/2017	STAT	20	No Comment	6790
06/01/2017	06/30/2017	WORK	10	No Comment	6780
07/01/2017	07/31/2017	FLAT	31	No Comment	6749
07/01/2017	07/31/2017	STAT	20	No Comment	6729
07/01/2017	07/31/2017	WORK	10	No Comment	6719

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200133	03/11/2014	0		0y 300m	9131	03/10/2024	11/06/2026	A

From Date	To Date	Adjust Code	Adjust Days	Comments	Days Remaining
08/01/2017	08/31/2017	FLAT	31	No Comment	6688
08/01/2017	08/31/2017	STAT	20	No Comment	6668
08/01/2017	08/31/2017	WORK	8	No Comment	6660
09/01/2017	09/30/2017	FLAT	30	No Comment	6630
09/01/2017	09/30/2017	STAT	20	No Comment	6610
09/01/2017	09/30/2017	WORK	10	No Comment	6600
10/01/2017	10/31/2017	FLAT	31	No Comment	6569
10/01/2017	10/31/2017	STAT	20	No Comment	6549
10/01/2017	10/31/2017	WORK	10	No Comment	6539
11/01/2017	11/30/2017	FLAT	30	No Comment	6509
11/01/2017	11/30/2017	STAT	20	No Comment	6489
11/01/2017	11/30/2017	WORK	10	No Comment	6479
12/01/2017	12/31/2017	FLAT	31	No Comment	6448
12/01/2017	12/31/2017	STAT	20	No Comment	6428
12/01/2017	12/31/2017	WORK	10	No Comment	6418
01/01/2018	01/31/2018	FLAT	31	No Comment	6387
01/01/2018	01/31/2018	STAT	20	No Comment	6367
01/01/2018	01/31/2018	WORK	10	No Comment	6357
02/01/2018	02/28/2018	FLAT	28	No Comment	6329
02/01/2018	02/28/2018	STAT	20	No Comment	6309
02/01/2018	02/28/2018	WORK	10	No Comment	6299
03/01/2018	03/31/2018	FLAT	31	No Comment	6268
03/01/2018	03/31/2018	STAT	20	No Comment	6248
03/01/2018	03/31/2018	WORK	10	No Comment	6238
04/01/2018	04/30/2018	FLAT	30	No Comment	6208
04/01/2018	04/30/2018	STAT	20	No Comment	6188
04/01/2018	04/30/2018	WORK	10	No Comment	6178
05/01/2018	05/31/2018	FLAT	31	No Comment	6147
05/01/2018	05/31/2018	STAT	20	No Comment	6127
05/01/2018	05/31/2018	WORK	10	No Comment	6117
06/01/2018	06/30/2018	FLAT	30	No Comment	6087
06/01/2018	06/30/2018	STAT	20	No Comment	6067
06/01/2018	06/30/2018	WORK	10	No Comment	6057
07/01/2018	07/31/2018	FLAT	31	No Comment	6026
07/01/2018	07/31/2018	STAT	20	No Comment	6006
07/01/2018	07/31/2018	WORK	10	No Comment	5996
08/01/2018	08/31/2018	FLAT	31	No Comment	5965
08/01/2018	08/31/2018	STAT	20	No Comment	5945
08/01/2018	08/31/2018	WORK	10	No Comment	5935
09/01/2018	09/30/2018	FLAT	30	No Comment	5905
09/01/2018	09/30/2018	STAT	20	No Comment	5885
09/01/2018	09/30/2018	WORK	10	No Comment	5875
10/01/2018	10/31/2018	FLAT	31	No Comment	5844

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200133	03/11/2014	0		0y 300m	9131	03/10/2024	11/06/2028	A

From Date	To Date	Adjust Code	Adjust Days	Comments	Days Remaining
10/01/2018	10/31/2018	STAT	20	No Comment	5824
10/01/2018	10/31/2018	WORK	10	No Comment	5814
11/01/2018	11/30/2018	FLAT	30	No Comment	5784
11/01/2018	11/30/2018	STAT	20	No Comment	5764
11/01/2018	11/30/2018	WORK	10	No Comment	5754
12/01/2018	12/31/2018	FLAT	31	No Comment	5723
12/01/2018	12/31/2018	STAT	20	No Comment	5703
12/01/2018	12/31/2018	WORK	10	No Comment	5693
01/01/2019	01/31/2019	FLAT	31	No Comment	5662
01/01/2019	01/31/2019	STAT	20	No Comment	5642
01/01/2019	01/31/2019	WORK	10	No Comment	5632
02/01/2019	02/28/2019	FLAT	28	No Comment	5604
02/01/2019	02/28/2019	STAT	20	No Comment	5584
02/01/2019	02/28/2019	WORK	10	No Comment	5574
03/01/2019	03/31/2019	FLAT	31	No Comment	5543
03/01/2019	03/31/2019	STAT	20	No Comment	5523
03/01/2019	03/31/2019	WORK	10	No Comment	5513
04/01/2019	04/30/2019	FLAT	30	No Comment	5483
04/01/2019	04/30/2019	STAT	20	No Comment	5463
04/01/2019	04/30/2019	WORK	10	No Comment	5453
05/01/2019	05/31/2019	FLAT	31	No Comment	5422
05/01/2019	05/31/2019	STAT	20	No Comment	5402
05/01/2019	05/31/2019	WORK	10	No Comment	5392
06/01/2019	06/30/2019	FLAT	30	No Comment	5362
06/01/2019	06/30/2019	STAT	20	No Comment	5342
06/01/2019	06/30/2019	WORK	10	No Comment	5332
07/01/2019	07/31/2019	FLAT	31	No Comment	5301
07/01/2019	07/31/2019	STAT	20	No Comment	5281
07/01/2019	07/31/2019	WORK	10	No Comment	5271
08/01/2019	08/31/2019	FLAT	31	No Comment	5240
08/01/2019	08/31/2019	STAT	20	No Comment	5220
08/01/2019	08/31/2019	WORK	10	No Comment	5210
09/01/2019	09/30/2019	FLAT	30	No Comment	5180
09/01/2019	09/30/2019	STAT	20	No Comment	5160
09/01/2019	09/30/2019	WORK	10	No Comment	5150
10/01/2019	10/31/2019	FLAT	31	No Comment	5119
10/01/2019	10/31/2019	STAT	20	No Comment	5099
10/01/2019	10/31/2019	WORK	10	No Comment	5089
11/01/2019	11/30/2019	FLAT	30	No Comment	5059
11/01/2019	11/30/2019	STAT	20	No Comment	5039
11/01/2019	11/30/2019	WORK	10	No Comment	5029
12/01/2019	12/31/2019	FLAT	31	No Comment	4998
12/01/2019	12/31/2019	STAT	20	No Comment	4978

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From Date	To Date	Adjust Code	Adjust Days	Comments	Days Remaining
12/01/2019	12/31/2019	WORK	10	No Comment	4968
01/01/2020	01/31/2020	FLAT	31	No Comment	4937
01/01/2020	01/31/2020	STAT	20	No Comment	4917
01/01/2020	01/31/2020	WORK	10	No Comment	4907
02/01/2020	02/29/2020	FLAT	29	No Comment	4878
02/01/2020	02/29/2020	STAT	20	No Comment	4858
02/01/2020	02/29/2020	WORK	10	No Comment	4848
03/01/2020	03/31/2020	FLAT	31	No Comment	4817
03/01/2020	03/31/2020	STAT	20	No Comment	4797
03/01/2020	03/31/2020	WORK	10	No Comment	4787
04/01/2020	04/30/2020	FLAT	30	No Comment	4757
04/01/2020	04/30/2020	STAT	20	No Comment	4737
04/01/2020	04/30/2020	WORK	10	No Comment	4727
05/01/2020	05/31/2020	FLAT	31	No Comment	4696
05/01/2020	05/31/2020	STAT	20	No Comment	4676
05/01/2020	05/31/2020	WORK	10	No Comment	4666
06/01/2020	06/30/2020	FLAT	30	No Comment	4636
06/01/2020	06/30/2020	STAT	20	No Comment	4616
06/01/2020	06/30/2020	WORK	10	No Comment	4606
07/01/2020	07/31/2020	FLAT	31	No Comment	4575
07/01/2020	07/31/2020	STAT	20	No Comment	4555
07/01/2020	07/31/2020	WORK	10	No Comment	4545
08/01/2020	08/31/2020	FLAT	31	No Comment	4514
08/01/2020	08/31/2020	STAT	20	No Comment	4494
08/01/2020	08/31/2020	WORK	10	No Comment	4484
09/01/2020	09/30/2020	FLAT	30	No Comment	4454
09/01/2020	09/30/2020	STAT	20	No Comment	4434
09/01/2020	09/30/2020	WORK	10	No Comment	4424
10/01/2020	10/31/2020	FLAT	31	No Comment	4393
10/01/2020	10/31/2020	STAT	20	No Comment	4373
10/01/2020	10/31/2020	WORK	10	No Comment	4363
11/01/2020	11/30/2020	FLAT	30	No Comment	4333
11/01/2020	11/30/2020	STAT	20	No Comment	4313
11/01/2020	11/30/2020	WORK	10	No Comment	4303
12/01/2020	12/31/2020	FLAT	31	No Comment	4272
12/01/2020	12/31/2020	STAT	20	No Comment	4252
12/01/2020	12/31/2020	WORK	10	No Comment	4242
01/01/2021	01/31/2021	FLAT	31	No Comment	4211
01/01/2021	01/31/2021	STAT	20	No Comment	4191
01/01/2021	01/31/2021	WORK	10	No Comment	4181
02/01/2021	02/28/2021	FLAT	28	No Comment	4153
02/01/2021	02/28/2021	STAT	20	No Comment	4133
02/01/2021	02/28/2021	WORK	10	No Comment	4123

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From Date	To Date	Adjust Code	Adjust Days	Comments	Days Remaining
03/01/2021	03/31/2021	FLAT	31	No Comment	4092
03/01/2021	03/31/2021	STAT	20	No Comment	4072
03/01/2021	03/31/2021	WORK	10	No Comment	4062
04/01/2021	04/30/2021	FLAT	30	No Comment	4032
04/01/2021	04/30/2021	STAT	20	No Comment	4012
04/01/2021	04/30/2021	WORK	10	No Comment	4002
05/01/2021	05/31/2021	FLAT	31	No Comment	3971
05/01/2021	05/31/2021	STAT	20	No Comment	3951
05/01/2021	05/31/2021	WORK	10	No Comment	3941
06/01/2021	06/30/2021	FLAT	30	No Comment	3911
06/01/2021	06/30/2021	STAT	20	No Comment	3891
06/01/2021	06/30/2021	WORK	10	No Comment	3881
07/01/2021	07/31/2021	FLAT	31	No Comment	3850
07/01/2021	07/31/2021	STAT	20	No Comment	3830
07/01/2021	07/31/2021	WORK	10	No Comment	3820
08/01/2021	08/31/2021	FLAT	31	No Comment	3789
08/01/2021	08/31/2021	STAT	20	No Comment	3769
08/01/2021	08/31/2021	WORK	10	No Comment	3759
09/01/2021	09/30/2021	FLAT	30	No Comment	3729
09/01/2021	09/30/2021	STAT	20	No Comment	3709
09/01/2021	09/30/2021	WORK	10	No Comment	3699
10/01/2021	10/31/2021	FLAT	31	No Comment	3668
10/01/2021	10/31/2021	STAT	20	No Comment	3648
10/01/2021	10/31/2021	WORK	10	No Comment	3638
11/01/2021	11/30/2021	FLAT	30	No Comment	3608
11/01/2021	11/30/2021	STAT	20	No Comment	3588
11/01/2021	11/30/2021	WORK	10	No Comment	3578
12/01/2021	12/31/2021	FLAT	31	No Comment	3547
12/01/2021	12/31/2021	STAT	20	No Comment	3527
12/01/2021	12/31/2021	WORK	10	No Comment	3517
01/01/2022	01/31/2022	FLAT	31	No Comment	3486
01/01/2022	01/31/2022	STAT	20	No Comment	3466
01/01/2022	01/31/2022	WORK	10	No Comment	3456
02/01/2022	02/28/2022	FLAT	28	No Comment	3428
02/01/2022	02/28/2022	STAT	20	No Comment	3408
02/01/2022	02/28/2022	WORK	10	No Comment	3398
03/01/2022	03/31/2022	FLAT	31	No Comment	3367
03/01/2022	03/31/2022	STAT	20	No Comment	3347
03/01/2022	03/31/2022	WORK	10	No Comment	3337
04/01/2022	04/30/2022	FLAT	30	No Comment	3307
04/01/2022	04/30/2022	STAT	20	No Comment	3287
04/01/2022	04/30/2022	WORK	10	No Comment	3277
05/01/2022	05/31/2022	FLAT	31	No Comment	3246

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Offender: PEREZ, GERARDO - 0000085726

Sentence: 1

Count: 1

Current Earned Expiration Date: 11/25/2035

Case	Sentence Dt	JC	Retro Dt	MAX Term	Days Owed	PED	PEXD	Status
200133	03/11/2014	0		0y 300m	9131	03/10/2024	11/06/2026	A

From Date	To Date	Adjust Code	Adjust Days	Comments	Days Remaining
05/01/2022	05/31/2022	STAT	20	No Comment	3226
05/01/2022	05/31/2022	WORK	10	No Comment	3216
06/01/2022	06/30/2022	FLAT	30	No Comment	3186
06/01/2022	06/30/2022	STAT	20	No Comment	3166
06/01/2022	06/30/2022	WORK	10	No Comment	3156
07/01/2022	07/31/2022	FLAT	31	No Comment	3125
07/01/2022	07/31/2022	STAT	20	No Comment	3105
07/01/2022	07/31/2022	WORK	10	No Comment	3095
08/01/2022	08/31/2022	FLAT	31	No Comment	3064
08/01/2022	08/31/2022	STAT	20	No Comment	3044
08/01/2022	08/31/2022	WORK	10	No Comment	3034
09/01/2022	09/30/2022	FLAT	30	No Comment	3004
09/01/2022	09/30/2022	STAT	20	No Comment	2984
09/01/2022	09/30/2022	WORK	10	No Comment	2974
10/01/2022	10/31/2022	FLAT	31	No Comment	2943
10/01/2022	10/31/2022	STAT	20	No Comment	2923
10/01/2022	10/31/2022	WORK	10	No Comment	2913
11/01/2022	11/30/2022	FLAT	30	No Comment	2883
11/01/2022	11/30/2022	STAT	20	No Comment	2863
11/01/2022	11/30/2022	WORK	10	No Comment	2853
12/01/2022	12/31/2022	FLAT	31	No Comment	2822
12/01/2022	12/31/2022	STAT	20	No Comment	2802
12/01/2022	12/31/2022	WORK	10	No Comment	2792
01/01/2023	01/31/2023	FLAT	31	No Comment	2761
01/01/2023	01/31/2023	STAT	20	No Comment	2741
01/01/2023	01/31/2023	WORK	10	No Comment	2731
02/01/2023	02/28/2023	FLAT	28	No Comment	2703
02/01/2023	02/28/2023	STAT	20	No Comment	2683
02/01/2023	02/28/2023	WORK	10	No Comment	2673
03/01/2023	03/31/2023	FLAT	31	No Comment	2642
03/01/2023	03/31/2023	STAT	20	No Comment	2622
03/01/2023	03/31/2023	WORK	10	No Comment	2612
04/01/2023	04/30/2023	FLAT	30	No Comment	2582
04/01/2023	04/30/2023	STAT	20	No Comment	2562
04/01/2023	04/30/2023	WORK	10	No Comment	2552
05/01/2023	05/31/2023	FLAT	31	No Comment	2521
05/01/2023	05/31/2023	STAT	20	No Comment	2501
05/01/2023	05/31/2023	WORK	10	No Comment	2491
06/01/2023	06/30/2023	FLAT	30	No Comment	2461
06/01/2023	06/30/2023	STAT	20	No Comment	2441
06/01/2023	06/30/2023	WORK	10	No Comment	2431
07/01/2023	07/31/2023	FLAT	31	No Comment	2400
07/01/2023	07/31/2023	STAT	20	No Comment	2380

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Offender: PEREZ, GERARDO - 0000085726

Sentence: 1

Count: 1

Current Earned Expiration Date: 11/25/2035

Caso	Sentence Dt	JC	Retro Dt	MAX Term	Days Owed	PED	PEXD	Status
200133	03/11/2014	0		0y 300m	9131	03/10/2024	11/06/2026	A

From Date	To Date	Adjust Code	Adjust Days	Comments	Days Remaining
07/01/2023	07/31/2023	WORK	10	No Comment	2370
08/01/2023	08/31/2023	FLAT	31	No Comment	2339
08/01/2023	08/31/2023	STAT	20	No Comment	2319
08/01/2023	08/31/2023	WORK	10	No Comment	2309
09/01/2023	09/30/2023	FLAT	30	No Comment	2279
09/01/2023	09/30/2023	STAT	20	No Comment	2259
09/01/2023	09/30/2023	WORK	10	No Comment	2249
10/01/2023	10/31/2023	FLAT	31	No Comment	2218
10/01/2023	10/31/2023	STAT	20	No Comment	2198
10/01/2023	10/31/2023	WORK	10	No Comment	2188
11/01/2023	11/30/2023	FLAT	30	No Comment	2158
11/01/2023	11/30/2023	STAT	20	No Comment	2138
11/01/2023	11/30/2023	WORK	10	No Comment	2128
12/01/2023	12/31/2023	FLAT	31	No Comment	2097
12/01/2023	12/31/2023	STAT	20	No Comment	2077
12/01/2023	12/31/2023	WORK	10	No Comment	2067
01/01/2024	01/31/2024	FLAT	31	No Comment	2036
01/01/2024	01/31/2024	STAT	20	No Comment	2016
01/01/2024	01/31/2024	WORK	10	No Comment	2006
02/01/2024	02/29/2024	FLAT	29	No Comment	1977
02/01/2024	02/29/2024	STAT	20	No Comment	1957
02/01/2024	02/29/2024	WORK	10	No Comment	1947
03/01/2024	03/31/2024	FLAT	31	No Comment	1916
03/01/2024	03/31/2024	STAT	20	No Comment	1896
03/01/2024	03/31/2024	WORK	10	No Comment	1886
04/01/2024	04/30/2024	FLAT	30	No Comment	1856
04/01/2024	04/30/2024	STAT	20	No Comment	1836
04/01/2024	04/30/2024	WORK	10	No Comment	1826
05/01/2024	05/31/2024	FLAT	31	No Comment	1795
05/01/2024	05/31/2024	STAT	20	No Comment	1775
05/01/2024	05/31/2024	WORK	10	No Comment	1765
06/01/2024	06/30/2024	FLAT	30	No Comment	1735
06/01/2024	06/30/2024	STAT	20	No Comment	1715
06/01/2024	06/30/2024	WORK	10	No Comment	1705
07/01/2024	07/31/2024	FLAT	31	No Comment	1674
07/01/2024	07/31/2024	STAT	20	No Comment	1654
07/01/2024	07/31/2024	WORK	10	No Comment	1644
08/01/2024	08/31/2024	FLAT	31	No Comment	1613
08/01/2024	08/31/2024	STAT	20	No Comment	1593
08/01/2024	08/31/2024	WORK	10	No Comment	1583
09/01/2024	09/30/2024	FLAT	30	No Comment	1553
09/01/2024	09/30/2024	STAT	20	No Comment	1533
09/01/2024	09/30/2024	WORK	10	No Comment	1523

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Offender: PEREZ, GERARDO - 0000085726

Sentence: 1

Count: 1

Current Earned Expiration Date: 11/25/2035

Case	Sentence Dt	JC	Reiro Dt	MAX Term	Days Owed	PED	PEXD	Status
200133	03/11/2014	0		0y 300m	9131	03/10/2024	11/06/2026	A

From Date	To Date	Adjust Code	Adjust Days	Comments	Days Remaining
10/01/2024	10/31/2024	FLAT	31	No Comment	1492
10/01/2024	10/31/2024	STAT	20	No Comment	1472
10/01/2024	10/31/2024	WORK	10	No Comment	1462
11/01/2024	11/30/2024	FLAT	30	No Comment	1432
11/01/2024	11/30/2024	STAT	20	No Comment	1412
11/01/2024	11/30/2024	WORK	10	No Comment	1402
12/01/2024	12/31/2024	FLAT	31	No Comment	1371
12/01/2024	12/31/2024	STAT	20	No Comment	1351
12/01/2024	12/31/2024	WORK	10	No Comment	1341
01/01/2025	01/31/2025	FLAT	31	No Comment	1310
01/01/2025	01/31/2025	STAT	20	No Comment	1290
01/01/2025	01/31/2025	WORK	10	No Comment	1280
02/01/2025	02/28/2025	FLAT	28	No Comment	1252
02/01/2025	02/28/2025	STAT	20	No Comment	1232
02/01/2025	02/28/2025	WORK	10	No Comment	1222
03/01/2025	03/31/2025	FLAT	31	No Comment	1191
03/01/2025	03/31/2025	STAT	20	No Comment	1171
03/01/2025	03/31/2025	WORK	10	No Comment	1161
04/01/2025	04/30/2025	FLAT	30	No Comment	1131
04/01/2025	04/30/2025	STAT	20	No Comment	1111
04/01/2025	04/30/2025	WORK	10	No Comment	1101
05/01/2025	05/31/2025	FLAT	31	No Comment	1070
05/01/2025	05/31/2025	STAT	20	No Comment	1050
05/01/2025	05/31/2025	WORK	10	No Comment	1040
06/01/2025	06/30/2025	FLAT	30	No Comment	1010
06/01/2025	06/30/2025	STAT	20	No Comment	990
06/01/2025	06/30/2025	WORK	10	No Comment	980
07/01/2025	07/31/2025	FLAT	31	No Comment	949
07/01/2025	07/31/2025	STAT	20	No Comment	929
07/01/2025	07/31/2025	WORK	10	No Comment	919
08/01/2025	08/31/2025	FLAT	31	No Comment	888
08/01/2025	08/31/2025	STAT	20	No Comment	868
08/01/2025	08/31/2025	WORK	10	No Comment	858
09/01/2025	09/30/2025	FLAT	30	No Comment	828
09/01/2025	09/30/2025	STAT	20	No Comment	808
09/01/2025	09/30/2025	WORK	10	No Comment	798
10/01/2025	10/31/2025	FLAT	31	No Comment	767
10/01/2025	10/31/2025	STAT	20	No Comment	747
10/01/2025	10/31/2025	WORK	10	No Comment	737
11/01/2025	11/30/2025	FLAT	30	No Comment	707
11/01/2025	11/30/2025	STAT	20	No Comment	687
11/01/2025	11/30/2025	WORK	10	No Comment	677
12/01/2025	12/31/2025	FLAT	31	No Comment	646

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Offender: PEREZ, GERARDO - 0000085726 Sentence: 1 Count: 1  
Current Earned Expiration Date: 11/25/2035

Case	Sentence Dt	JC	Retro Dt	MAX Term	Days Owed	PED	PEXD	Status
200133	03/11/2014	0		0y 300m	9131	03/10/2024	11/06/2026	A

From Date	To Date	Adjust Code	Adjust Days	Comments	Days Remaining
12/01/2025	12/31/2025	STAT	20	No Comment	626
12/01/2025	12/31/2025	WORK	10	No Comment	616
01/01/2026	01/31/2026	FLAT	31	No Comment	585
01/01/2026	01/31/2026	STAT	20	No Comment	565
01/01/2026	01/31/2026	WORK	10	No Comment	555
02/01/2026	02/28/2026	FLAT	28	No Comment	527
02/01/2026	02/28/2026	STAT	20	No Comment	507
02/01/2026	02/28/2026	WORK	10	No Comment	497
03/01/2026	03/31/2026	FLAT	31	No Comment	466
03/01/2026	03/31/2026	STAT	20	No Comment	446
03/01/2026	03/31/2026	WORK	10	No Comment	436
04/01/2026	04/30/2026	FLAT	30	No Comment	406
04/01/2026	04/30/2026	STAT	20	No Comment	386
04/01/2026	04/30/2026	WORK	10	No Comment	376
05/01/2026	05/31/2026	FLAT	31	No Comment	345
05/01/2026	05/31/2026	STAT	20	No Comment	325
05/01/2026	05/31/2026	WORK	10	No Comment	315
06/01/2026	06/30/2026	FLAT	30	No Comment	285
06/01/2026	06/30/2026	STAT	20	No Comment	265
06/01/2026	06/30/2026	WORK	10	No Comment	255
07/01/2026	07/31/2026	FLAT	31	No Comment	224
07/01/2026	07/31/2026	STAT	20	No Comment	204
07/01/2026	07/31/2026	WORK	10	No Comment	194
08/01/2026	08/31/2026	FLAT	31	No Comment	163
08/01/2026	08/31/2026	STAT	20	No Comment	143
08/01/2026	08/31/2026	WORK	10	No Comment	133
09/01/2026	09/30/2026	FLAT	30	No Comment	103
09/01/2026	09/30/2026	STAT	20	No Comment	83
09/01/2026	09/30/2026	WORK	10	No Comment	73
10/01/2026	10/31/2026	FLAT	31	No Comment	42
10/01/2026	10/31/2026	STAT	20	No Comment	22
10/01/2026	10/31/2026	WORK	10	No Comment	12
11/01/2026	11/06/2026	FLAT	6	No Comment	6
11/01/2026	11/06/2026	STAT	4	No Comment	2
11/01/2026	11/06/2026	WORK	2	No Comment	0

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A-17-753832-W      Gerardo Perez, Plaintiff(s)  
                                 vs.  
                                 Brian Williams, Defendant(s)

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September 28, 2017      09:00 AM      Petition for Writ of Habeas Corpus

HEARD BY:      Bell, Linda Marie      COURTROOM: RJC Courtroom 15A

COURT CLERK: Perry, Sylvia

RECORDER:      Vincent, Renee

REPORTER:

PARTIES PRESENT:

**JOURNAL ENTRIES**

No parties present

Plaintiff is challenging the computation of time by the Nevada Department of Corrections (NDOC). He was convicted of a category A felony with an offense date in 2003 and is not entitled to credits off of his minimum sentence pursuant to NRS 209.4465(7)(b). Additionally, there is no due process or ex-post facto issue as the statute was in place at the time he was convicted and similarly situated inmates are treated the same under the statute. He is not entitled to work credits for work not performed and because he has been before the parole board, there is no additional relief this court may grant. COURT ORDERED, petition DENIED.

*Steven D. Grierson*

1 DAO

2 EIGHTH JUDICIAL DISTRICT COURT

3 CLARK COUNTY, NEVADA

4 GERARDO PEREZ,

5 Petitioner,

6 vs.

7 BRIAN WILLIAMS, WARDEN, et al.,

8 Respondents.

Case No. A-17-753832-W

Dept. No. VII

9 **DECISION AND ORDER**

10 Now before the Court is Petitioner Gerardo Perez's Petition for Writ of Habeas Corpus. The  
11 matter came before the Court on September 28, 2017. No parties were present and therefore the  
12 Court did not entertain oral arguments and now rules based solely on the pleadings pursuant to NRS  
13 34.770(2). The Court denies Mr. Perez's Petition for Writ of Habeas Corpus.

14 **I. Factual and Procedural Background**

15 Gerardo Perez is currently incarcerated in High Desert State Prison. Mr. Perez was  
16 adjudicated guilty of Second Degree Murder with Use of a Deadly Weapon, a category A felony.  
17 The conduct giving rise to the offense occurred on November 30, 2003. Mr. Perez is serving a  
18 maximum sentence of twenty-five years, with a minimum parole eligibility date after ten years, plus  
19 an equal and consecutive sentence for the deadly weapon enhancement. Mr. Perez received three  
20 hundred ninety-two days credit for time served. Mr. Perez appeared before the parole board on the  
21 Murder portion of his sentence, and was paroled to his consecutive sentence on March 10, 2014.  
22 Mr. Perez is actively serving the deadly weapon enhancement portion of his sentence.

23 Mr. Perez filed his Petition for Writ of Habeas Corpus on or about April 12, 2017. Mr. Perez  
24 alleges the Nevada Department of Corrections and Warden Brian Williams failed to properly apply  
25 good time credit to Mr. Perez's minimum parole eligibility. Mr. Perez argues he is entitled to a  
26 deduction of 20 days from his parole eligibility date for each month he has served pursuant to NRS  
27 209.4465. Also, Mr. Perez argues he is entitled to work credit. Mr. Perez cites an unpublished  
28 Nevada Supreme Court decision: Vonseydewitz v. Legrand, No. 66159, 2015 WL 3936827 (Nev.

<input type="checkbox"/> Voluntary Dismissal	<input checked="" type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

1

LINDA MARIE BELL  
DISTRICT JUDGE  
DEPARTMENT VII

JAN 04 2018

1 June 24, 2015). The Attorney General's Office responded on September 26, 2017 arguing that Mr.  
2 Perez is not entitled to additional good time credit deductions from his parole eligibility date or his  
3 minimum sentence, and argued the unpublished Nevada Supreme Court decision Vonseydewitz is  
4 inapplicable. Since the hearing date of the Petition, the Nevada Supreme Court has since published  
5 Williams v. State, 133 Nev. Adv. Op 75, (Oct. 5, 2017), which affirmed the reasoning cited in  
6 Vonseydewitz. Therefore, the Court will not address Vonseydewitz, but uses Williams in its  
7 analysis.

## 8 II. Discussion

9 The Court notes that Vonseydewitz does not apply in the instant case. Vonseydewitz is an  
10 unpublished decision. Because it was issued before January 1, 2016, it cannot be cited for any  
11 persuasive value. Since then, Williams has held that petitioners with offense dates between 1995  
12 and July 1, 2007 are entitled to good time credits under NRS 209.4465(7)(b) if the statute which the  
13 petitioner was sentenced under did not specify a parole eligibility date, and if petitioner had not  
14 already been before the parole board on that sentence. Mr. Perez's offenses took place in 2003.  
15 However, Mr. Perez is active on a sentence which specified a parole eligibility date, and therefore is  
16 excluded from receiving good time credits.

### 17 A. The Court Denies Mr. Perez's Petition Pursuant to Williams.

18 Nevada Revised Statute 209.4465 governs the award of credits for crimes committed on or  
19 after July 17, 1997. The Court applies the version of the statute in effect when Mr. Perez committed  
20 the offenses in its analysis, because Mr. Perez's offense took place before the 2007 amendment. For  
21 offenses committed before July 1, 2007, the Court finds that an inmate that meets certain  
22 qualifications "must be allowed. . . a deduction of 10 days from his sentence for each month he  
23 serves." NRS 209.4465(1) (2003) (amended 2007). These credits "must be deducted from the  
24 maximum term imposed by the sentence," and "[a]pply to eligibility for parole unless the offender  
25 was sentenced pursuant to a statute which specifies a minimum sentence that must be served before  
26 a person becomes eligible for parole." NRS 209.4465(7) (2003) (amended 2007). For offenses  
27 committed after the July 1, 2007 effective date, the petitioner is entitled to "a deduction of 20 days  
28 from his sentence for each month he serves." NRS 209.4465(1) (2007). Williams now governs the

1 credits a petitioner may earn under NRS 209.4465, and their application for offenses committed  
2 before July 1, 2007.

3 Pursuant to Williams, the Nevada Supreme Court found that a petitioner is entitled to apply  
4 credits they would have earned under NRS 209.4465 to the current sentence's minimum if the  
5 petitioner was sentenced under a statute that was silent as to a parole eligibility date, and if the  
6 petitioner had not already appeared before the parole board. Williams at p.13. The Nevada  
7 Supreme Court found that NRS 209.4465(7), section (a) provides the general rule for credits earned  
8 towards eligibility for parole, and section (b) sets forth the limitations. Under the rules of  
9 construction, the Nevada Supreme Court found that section (b) limitations do not apply to a  
10 sentencing statute that is silent on parole eligibility. As such, credits earned should be deducted  
11 from a petitioner's minimum sentence. Thus, an inmate is eligible for parole sooner than he or she  
12 would have been without the credits. Williams at ps. 4-5.

13 Therefore, as Mr. Perez's offense date was before July 1, 2007, the Court next determines  
14 whether Mr. Perez would be entitled to good time credit deductions from his parole eligibility date  
15 under NRS 209.4465. As Mr. Perez was sentenced under statutes with specified parole eligibility  
16 dates, the Williams decision is inapplicable. Consequently, this Court therefore denies Mr. Perez's  
17 Petition for Writ of Habeas Corpus.

18 **B. Mr. Perez is not entitled to work credits.**

19 Mr. Perez also claims that he is entitled to work credits because he is willing to work or  
20 attend educational programs. The issuance of work credits is governed by NRS 209.4465(2) which  
21 states:

22 2. In addition to the credits allows pursuant to subsection 1, the Director may  
23 allow not more than days of credit each month for an offender whose diligence in  
24 labor and study merits such credits.

25 The court notes that "Both NRS 209.433(3) and NDOP Administrative Regulation 714 (III)  
26 make the granting of Work Time Credit discretionary [,] which merely creates a possibility of early  
27 release." Cooper v. Sumner, 672 F. Supp. 1361, 1367 (D. Nev. 1987). Because Mr. Perez only  
28 claims that he has been denied the right to earn work credit, this argument fails. Mr. Perez has no

1 constitutionally protected liberty interest in earning work credit, and he is not entitled to any more  
2 credit than he does not work to earn. Since Mr. Perez has not submitted proof that he has earned any  
3 work credits, Mr. Perez is not entitled to any additional work credits.

4 **C. Mr. Perez Misunderstands Applicable Law.**


5 Lastly, the Court notes there is no due process issue here or equal protection issue as  
6 similarly situated inmates are similarly treated and Mr. Perez does not allege discrimination based  
7 on a classification.

8 **III. Conclusion**

9 The Court finds Mr. Perez is not entitled to additional credits. Therefore, the Court denies  
10 Mr. Perez's Petition for Writ of Habeas Corpus.

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DATED this day of December 28, 2017.

  
\_\_\_\_\_  
LINDA MARIE BELL  
DISTRICT COURT JUDGE

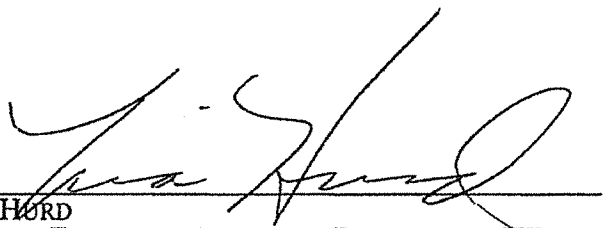
LINDA MARIE BELL  
DISTRICT JUDGE  
DEPARTMENT VII

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the date of filing, a copy of this Order was electronically served through the Eighth Judicial District Court EFP system or, if no e-mail was provided, by facsimile, U.S. Mail and/or placed in the Clerk's Office attorney folder(s) for:

Name	Party
Gerardo Perez c/o High Desert State Prison	Petitioner
Allison Herr, Esq. Deputy Attorney General	Counsel for Respondent

  
TINA HORD  
JUDICIAL EXECUTIVE ASSISTANT, DEPARTMENT VII

**AFFIRMATION**

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Decision and Order filed in District Court case number A753832 DOES NOT contain the social security number of any person.

/s/ Linda Marie Bell Date 12/ /2017  
District Court Judge

LINDA MARIE BELL  
DISTRICT JUDGE  
DEPARTMENT VII

*Steven D. Grierson*

1 NEOJ

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA

4 GERARDO PEREZ,

5  
6 Petitioner,

Case No: A-17-753832-W

Dept. No: VII

7 vs.

8 BRIAN WILLIAMS,

9 Respondent,

NOTICE OF ENTRY OF ORDER

10  
11 PLEASE TAKE NOTICE that on January 4, 2018, the court entered a decision or order in this matter, a  
12 true and correct copy of which is attached to this notice.

13 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you  
14 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is  
15 mailed to you. This notice was mailed on January 9, 2018.

16 STEVEN D. GRIERSON, CLERK OF THE COURT

17 /s/ Amanda Hampton

18 Amanda Hampton, Deputy Clerk

19 CERTIFICATE OF E-SERVICE / MAILING

20 I hereby certify that on this 9 day of January 2018, I served a copy of this Notice of Entry on the  
21 following:

22 ☒ By e-mail:

23 Clark County District Attorney's Office  
24 Attorney General's Office – Appellate Division-

25 ☒ The United States mail addressed as follows:

26 Gerardo Perez # 85726  
27 P.O. Box 650  
28 Indian Springs, NV 89070

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

*Steven D. Grierson*

1 DAO

2 EIGHTH JUDICIAL DISTRICT COURT  
3 CLARK COUNTY, NEVADA

4 GERARDO PEREZ,

5 Petitioner,

6 vs.

7 BRIAN WILLIAMS, WARDEN, et al.,

8 Respondents.

Case No. A-17-753832-W

Dept. No. VII

9 DECISION AND ORDER

10 Now before the Court is Petitioner Gerardo Perez's Petition for Writ of Habeas Corpus. The  
11 matter came before the Court on September 28, 2017. No parties were present and therefore the  
12 Court did not entertain oral arguments and now rules based solely on the pleadings pursuant to NRS  
13 34.770(2). The Court denies Mr. Perez's Petition for Writ of Habeas Corpus.

14 **I. Factual and Procedural Background**

15 Gerardo Perez is currently incarcerated in High Desert State Prison. Mr. Perez was  
16 adjudicated guilty of Second Degree Murder with Use of a Deadly Weapon, a category A felony.  
17 The conduct giving rise to the offense occurred on November 30, 2003. Mr. Perez is serving a  
18 maximum sentence of twenty-five years, with a minimum parole eligibility date after ten years, plus  
19 an equal and consecutive sentence for the deadly weapon enhancement. Mr. Perez received three  
20 hundred ninety-two days credit for time served. Mr. Perez appeared before the parole board on the  
21 Murder portion of his sentence, and was paroled to his consecutive sentence on March 10, 2014.  
22 Mr. Perez is actively serving the deadly weapon enhancement portion of his sentence.

23 Mr. Perez filed his Petition for Writ of Habeas Corpus on or about April 12, 2017. Mr. Perez  
24 alleges the Nevada Department of Corrections and Warden Brian Williams failed to properly apply  
25 good time credit to Mr. Perez's minimum parole eligibility. Mr. Perez argues he is entitled to a  
26 deduction of 20 days from his parole eligibility date for each month he has served pursuant to NRS  
27 209.4465. Also, Mr. Perez argues he is entitled to work credit. Mr. Perez cites an unpublished  
28 Nevada Supreme Court decision: Vonseydewitz v. Legrand, No. 66159, 2015 WL 3936827 (Nev.

<input type="checkbox"/> Voluntary Dismissal	<input checked="" type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

1

LINDA MARIE BELL  
DISTRICT JUDGE  
DEPARTMENT VII

JAN 04 2018



1 June 24, 2015). The Attorney General's Office responded on September 26, 2017 arguing that Mr.  
2 Perez is not entitled to additional good time credit deductions from his parole eligibility date or his  
3 minimum sentence, and argued the unpublished Nevada Supreme Court decision Vonseydewitz is  
4 inapplicable. Since the hearing date of the Petition, the Nevada Supreme Court has since published  
5 Williams v. State, 133 Nev. Adv. Op 75, (Oct. 5, 2017), which affirmed the reasoning cited in  
6 Vonseydewitz. Therefore, the Court will not address Vonseydewitz, but uses Williams in its  
7 analysis.

## 8 II. Discussion

9 The Court notes that Vonseydewitz does not apply in the instant case. Vonseydewitz is an  
10 unpublished decision. Because it was issued before January 1, 2016, it cannot be cited for any  
11 persuasive value. Since then, Williams has held that petitioners with offense dates between 1995  
12 and July 1, 2007 are entitled to good time credits under NRS 209.4465(7)(b) if the statute which the  
13 petitioner was sentenced under did not specify a parole eligibility date, and if petitioner had not  
14 already been before the parole board on that sentence. Mr. Perez's offenses took place in 2003.  
15 However, Mr. Perez is active on a sentence which specified a parole eligibility date, and therefore is  
16 excluded from receiving good time credits.

### 17 A. The Court Denies Mr. Perez's Petition Pursuant to Williams.

18 Nevada Revised Statute 209.4465 governs the award of credits for crimes committed on or  
19 after July 17, 1997. The Court applies the version of the statute in effect when Mr. Perez committed  
20 the offenses in its analysis, because Mr. Perez's offense took place before the 2007 amendment. For  
21 offenses committed before July 1, 2007, the Court finds that an inmate that meets certain  
22 qualifications "must be allowed. . . a deduction of 10 days from his sentence for each month he  
23 serves." NRS 209.4465(1) (2003) (amended 2007). These credits "must be deducted from the  
24 maximum term imposed by the sentence," and "[a]pply to eligibility for parole unless the offender  
25 was sentenced pursuant to a statute which specifies a minimum sentence that must be served before  
26 a person becomes eligible for parole." NRS 209.4465(7) (2003) (amended 2007). For offenses  
27 committed after the July 1, 2007 effective date, the petitioner is entitled to "a deduction of 20 days  
28 from his sentence for each month he serves." NRS 209.4465(1) (2007). Williams now governs the

1 credits a petitioner may earn under NRS 209.4465, and their application for offenses committed  
2 before July 1, 2007.

3 Pursuant to Williams, the Nevada Supreme Court found that a petitioner is entitled to apply  
4 credits they would have earned under NRS 209.4465 to the current sentence's minimum if the  
5 petitioner was sentenced under a statute that was silent as to a parole eligibility date, and if the  
6 petitioner had not already appeared before the parole board. Williams at p.13. The Nevada  
7 Supreme Court found that NRS 209.4465(7), section (a) provides the general rule for credits earned  
8 towards eligibility for parole, and section (b) sets forth the limitations. Under the rules of  
9 construction, the Nevada Supreme Court found that section (b) limitations do not apply to a  
10 sentencing statute that is silent on parole eligibility. As such, credits earned should be deducted  
11 from a petitioner's minimum sentence. Thus, an inmate is eligible for parole sooner than he or she  
12 would have been without the credits. Williams at ps. 4-5.

13 Therefore, as Mr. Perez's offense date was before July 1, 2007, the Court next determines  
14 whether Mr. Perez would be entitled to good time credit deductions from his parole eligibility date  
15 under NRS 209.4465. As Mr. Perez was sentenced under statutes with specified parole eligibility  
16 dates, the Williams decision is inapplicable. Consequently, this Court therefore denies Mr. Perez's  
17 Petition for Writ of Habeas Corpus.

18 **B. Mr. Perez is not entitled to work credits.**

19 Mr. Perez also claims that he is entitled to work credits because he is willing to work or  
20 attend educational programs. The issuance of work credits is governed by NRS 209.4465(2) which  
21 states:

22 2. In addition to the credits allows pursuant to subsection 1, the Director may  
23 allow not more than days of credit each month for an offender whose diligence in  
24 labor and study merits such credits.

25 The court notes that "Both NRS 209.433(3) and NDOP Administrative Regulation 714 (III)  
26 make the granting of Work Time Credit discretionary [,] which merely creates a possibility of early  
27 release." Cooper v. Sumner, 672 F. Supp. 1361, 1367 (D. Nev. 1987). Because Mr. Perez only  
28 claims that he has been denied the right to earn work credit, this argument fails. Mr. Perez has no

1 constitutionally protected liberty interest in earning work credit, and he is not entitled to any more  
2 credit than he does not work to earn. Since Mr. Perez has not submitted proof that he has earned any  
3 work credits, Mr. Perez is not entitled to any additional work credits.

4 **C. Mr. Perez Misunderstands Applicable Law.**

5 Lastly, the Court notes there is no due process issue here or equal protection issue as  
6 similarly situated inmates are similarly treated and Mr. Perez does not allege discrimination based  
7 on a classification.

8 **III. Conclusion**

9 The Court finds Mr. Perez is not entitled to additional credits. Therefore, the Court denies  
10 Mr. Perez's Petition for Writ of Habeas Corpus.

11  
12 DATED this day of December 28, 2017.

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16 LINDA MARIE BELL  
17 DISTRICT COURT JUDGE  
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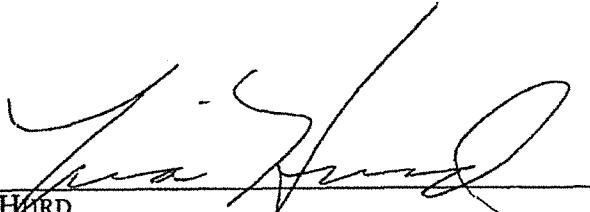
LINDA MARIE BELL  
DISTRICT JUDGE  
DEPARTMENT VII

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CERTIFICATE OF SERVICE

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Name	Party
Gerardo Perez c/o High Desert State Prison	Petitioner
Allison Herr, Esq. Deputy Attorney General	Counsel for Respondent


  
TINA HORD  
JUDICIAL EXECUTIVE ASSISTANT, DEPARTMENT VII

**AFFIRMATION**

Pursuant to NRS 239B.030  
The undersigned does hereby affirm that the preceding Decision and Order filed in District Court case number A753832 DOES NOT contain the social security number of any person.

/s/ Linda Marie Bell Date 12/ /2017  
District Court Judge

LINDA MARIE BELL  
DISTRICT JUDGE  
DEPARTMENT VII



1 BRET O. WHIPPLE, ESQ.  
Nevada Bar No. 6168  
2 1100 S. Tenth Street  
Las Vegas, NV 89104  
3 (702) 731-0000  
Attorneys for Defendant

4  
5 DISTRICT COURT

6 CLARK COUNTY

7 \* \* \* \* \*

8 GERARDO PEREZ,

9 PETITIONER,

10 VS.

11 BRIAN WILLIAMS,

12 RESPONDENT.  
13  
14

CASE NO.: A-17-753832-W

DEPARTMENT NO.: VII

15 NOTICE OF APPEAL

16 TO: BRIAN WILLIAMS, Respondent.

17 TO: CLARK COUNTY DISTRICT ATTORNEY, THE NEVADA ATTORNEY  
18 GENERAL and to THE EIGHTH JUDICIAL DISTRICT COURT, COUNTY OF CLARK,  
19 STATE OF NEVADA.

20 NOTICE IS HEREBY GIVEN that GERARDO PEREZ hereby appeals to the SUPREME  
21 COURT OF NEVADA from the denial of his Petition for Habeas Corpus Relief. GERARDO  
22 PEREZ'S Petition for Habeas Relief was denied by way of Findings of Fact and Conclusions of Law  
23

1 on January 4, 2018 and a Notice of Entry of Order was filed on January 9, 2018. This timely Notice of  
2 Appeal follows.

3 DATED on the 25<sup>th</sup> day of January, 2018.

4 JUSTICE LAW CENTER

5 /S/ Bret O. Whipple, Esq.  
6 BRET O. WHIPPLE, ESQ.  
7 BAR NO. 6168  
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CERTIFICATE OF SERVICE

I, TATUM WEHR, an employee of JUSTICE LAW CENTER, hereby declares that the herein described mailing took place, as a citizen of the United States over 21 years of age and not a party to, nor interested in, the within action; that on the 25<sup>th</sup> day of January, 2018, deposited in the United States Mail at Las Vegas, a copy of the Notice of Appeal in the case of GERARDO PEREZ v. BRIAN WILLIAMS, case number A-17-753832-W, enclosed in a sealed envelope in the US regular mail postage fully prepaid, addressed to:

STEVEN WOLFSON  
District Attorney  
200 Lewis Avenue  
Las Vegas ,NV 89155

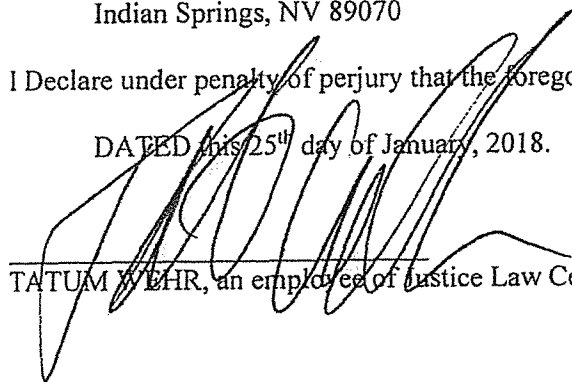
Gerardo Perez  
PO Box 650  
Inmate Number # 85726  
22010 Cold Creek Rd,  
Indian Springs, NV 89070

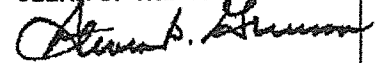
Adam Laxalt  
Nevada Attorney General  
100 North Carson Street  
Carson City, NV 89701

Brian Williams  
PO Box 650  
22010 Cold Creek Rd,  
Indian Springs, NV 89070

I Declare under penalty of perjury that the foregoing is true and correct.

DATED this 25<sup>th</sup> day of January, 2018.

  
TATUM WEHR, an employee of Justice Law Center



BRET O. WHIPPLE, ESQ.  
Nevada Bar No. 6168  
1100 S. Tenth Street  
Las Vegas, NV 89104  
(702) 731-0000  
Attorneys for Defendant

DISTRICT COURT

CLARK COUNTY

\* \* \* \* \*

GERARDO PEREZ,

PETITIONER,

VS.

BRIAN WILLIAMS,

RESPONDENT.

CASE NO.: A-17-753832-W

DEPARTMENT NO.: VII

CASE APPEAL STATEMENT

1. Appellant filing this Case Appeal Statement: GERARDO PEREZ.
2. Judge issuing the decision, judgment, or order appealed from: Honorable

Judge Linda Marie Bell

3. All parties to the proceedings in the district court: The State of Nevada,  
Respondent, Brian Williams, Respondent, Gerardo Perez, Petitioner.

4. All parties involved in this appeal: Gerardo, Petitioner; the State of Nevada,  
Respondent, Brian Williams, Respondent.

//



1           5.     Name, law firm, address, and telephone number of all counsel on appeal  
2     and party or parties whom they represent:

3           STEVEN WOLFSON  
4           District Attorney  
5           200 Lewis Avenue  
6           Las Vegas ,NV 89155

7           Gerardo Perez  
8           PO Box 650  
9           Inmate Number # 85726  
10          22010 Cold Creek Rd,  
11          Indian Springs, NV 89070

12          Adam Laxalt  
13          Nevada Attorney General  
14          100 North Carson Street  
15          Carson City, NV 89701

16          Brian Williams  
17          PO Box 650  
18          22010 Cold Creek Rd,  
19          Indian Springs, NV 89070

20           6.     Whether appellant was represented by appointed or retained counsel in  
21     the district court: Retained.

22           7.     Whether appellant is represented by appointed or retained counsel on  
23     appeal: Retained.

          8.     Whether appellant was granted leave to proceed in forma pauperis, and  
the date of entry of the district court order granting such leave: N/A

1           9.     Date proceedings commenced in the district court (e.g., date complaint,  
2 indictment, information, or petition was filed): April 12, 2017

3                     DATED this 25<sup>th</sup> day of January, 2018.

4                             /s/ Bret O. Whipple, Esq.  
5                             BRET WHIPPLE, ESQ.  
6                             Nevada Bar #6168  
7                             JUSTICE LAW CENTER  
8                             1100 South 10<sup>th</sup> St.  
9                             Las Vegas, Nevada 89104  
10                            (702) 731-0000

JUSTICE LAW CENTER  
1100 SOUTH 10<sup>TH</sup> STREET  
LAS VEGAS, NV 89104

CERTIFICATE OF SERVICE

I, TATUM WEHR, an employee of JUSTICE LAW CENTER, hereby declares that the herein described mailing took place, as a citizen of the United States over 21 years of age and not a party to, nor interested in, the within action; that on the 25<sup>th</sup> day of January, 2018, deposited in the United States Mail at Las Vegas, a copy of the CASE APPEAL STATEMENT in the case of GERARDO PEREZ v. BRIAN WILLIAMS, case number A-17-753832-W, enclosed in a sealed envelope in the US regular mail postage fully prepaid, addressed to:

STEVEN WOLFSON  
District Attorney  
200 Lewis Avenue  
Las Vegas, NV 89155

Gerardo Perez  
PO Box 650  
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Nevada Attorney General  
100 North Carson Street  
Carson City, NV 89701

Brian Williams  
PO Box 650  
22010 Cold Creek Rd,  
Indian Springs, NV 89070

I Declare under penalty of perjury that the foregoing is true and correct.

DATED this 25<sup>th</sup> day of January, 2018.

TATUM WEHR, an employee of Justice Law Center