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Steven D. Grierson
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DISTRICT COURT
CLARK COUNTY, NEVADA

FILED

MAY 16 2018

GARY FAIR,

Case No: A-17-764995-W

Petitioner,

Dept. No: VII

vs.

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *J. Henderson*
DEPUTY CLERK

BRIAN WILLIAMS,

NOTICE OF ENTRY OF ORDER

Respondent,

PLEASE TAKE NOTICE that on May 2, 2018, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on May 3, 2018.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

CERTIFICATE OF E-SERVICE / MAILING

I hereby certify that on this 3 day of May 2018, I served a copy of this Notice of Entry on the following:

☒ By e-mail:

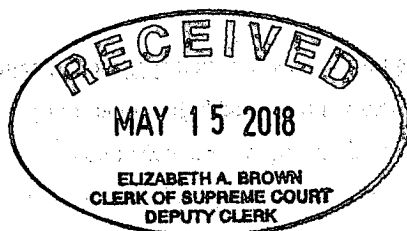
Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

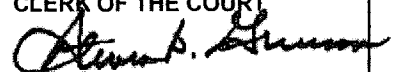
☒ The United States mail addressed as follows:

Gary Fair # 90314
P.O. Box 650
Indian Springs, NV 89070

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk





1 DAO

2 EIGHTH JUDICIAL DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5 GARY DERRICK FAIR,

6 Petitioner,

7 vs.

8 BRIAN WILLIAMS, WARDEN,

9 Respondents.

Case No. A-17-764995-W

Dept. No. VII

10 DECISION AND ORDER

11 Petitioner Gary Derrick Fair filed a Petition for Writ of Habeas Corpus challenging the
12 computation of time by the Nevada Department of Corrections. The matter came before the Court
13 on March 1, 2018. The Court did not entertain oral arguments and no parties were present. The
14 Court now rules based solely on the pleadings pursuant to NRS 34.770(2). The Court denies Mr.
15 Fair's Petition for Writ of Habeas Corpus.

16 **I. Factual and Procedural Background**

17 Gary Derrick Fair is serving a sentence for a 2016 Grand Larceny, a category C felony but
18 was sentenced as a habitual criminal under NRS 207.010, raising the offense to a category B felony.
19 Mr. Fair filed his Petition for Writ of Habeas Corpus on November 21, 2017. Mr. Fair alleges the
20 Nevada Department of Corrections failed to properly apply good time credit to Mr. Fair's sentence.
21 The Attorney General's Office filed a response on February 23, 2018. The Attorney General's
22 Office argues Mr. Fair is not entitled to any additional good time credit deductions.

23 **II. Discussion**

24 The Nevada Supreme Court in Williams v. State, 402 P.3d 1260 (Nev. 2017) held that
25 petitioners with offense dates between 1997 and June 30, 2007 are entitled to good time credits
26 under NRS 209.4465(7)(b) if: (1) the petitioner was sentenced under a statute that did not specify a
27 parole eligibility date; and (2) the petitioner has not already been before the parole board on that
28 sentence.

CLERK OF THE COURT

RECEIVED
MAY 02 2018 15

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII

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1 As Mr. Fair's offenses took place after July 1, 2007, after NRS 209.4465 was amended, the
2 decision in Williams does not apply. Therefore, the Court will be applying the current form of NRS
3 209.4465.

4 **Nevada Revised Statute 209.4465(8) governs the award of credits for crimes for offenses**
5 **committed after July 1, 2007**

6 Nevada Revised Statute 209.4465 governs the award of credits for crimes committed on or
7 after July 17, 1997. An inmate that meets certain qualifications "must be allowed. . . a deduction of
8 20 days from his or her sentence for each month the offender serves." NRS 209.4465(1). These
9 credits "[a]pply to eligibility for parole" unless "otherwise provided in subsections 8 and 9." NRS
10 209.4465(7). Under subsection 8, the credits apply to eligibility for parole for:

11 an offender who has not been convicted of:

12 (a) Any crime that is punishable as a felony involving the use or threatened
13 use of force or violence against the victim;

14 (b) A sexual offense that is punishable as a felony;

15 (c) A violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430 that is
16 punishable as a felony; or

17 (d) A category A or B felony.

18 NRS 209.4465(8).

19 The Court finds Mr. Fair is not entitled to good time credit deductions from Mr. Fair's parole
20 eligibility date under NRS 209.4465. All of Mr. Fair's sentence is for a post July 1, 2007 category B
21 felony. As his offenses were committed after the effective date of the 2007 amendment of NRS
22 209.4465, NRS 209.4465(8) governs rather than NRS 209.4465(7). Nevada Revised Statutes
23 209.4465(8) specifically exempts these types of offenses from NRS 209.4465(1)'s award for good
24 time credit deductions from an inmate's parole eligibility date. Consequently the Court denies Mr.
25 Fair's Petition.

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LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII

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III. Conclusion

Mr. Fair is not entitled to any additional credits off the minimum sentence under NRS 209.4465(8) as his offense was a category B felony committed after July 1, 2007. Therefore, the Court denies Mr. Fair's Petition for Writ of Habeas Corpus.

DATED this day of April 27, 2018.



LINDA MARIE BELL
DISTRICT COURT JUDGE

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII

1 CERTIFICATE OF SERVICE

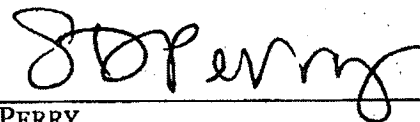
2 The undersigned hereby certifies that on the date of filing, a copy of this Order was
3 electronically served through the Eighth Judicial District Court EFP system or, if no e-mail was
4 provided, by facsimile, U.S. Mail and/or placed in the Clerk's Office attorney folder(s) for:

5

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

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SYLVIA PERRY
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 A751423 DOES NOT contain the social security number of any person.

/s/ Linda Marie Bell
District Court Judge

Date 4/2/2018

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII

HELLO,

HERE'S A COPY OF MY WRITTEN ORDER SO THE COURT CAN START
PROCEEDING WITH A DECISION ON MY CASE (APPEAL)

THANKS FOR YOUR TIME