

TRACEY W. VICKERS, # 1143756  
~~Warm Springs Correctional Center~~  
~~3301 EAST FIDEL STREET~~ ~~1 FEB 2017~~  
Carson City, Nevada, 89702 - ~~7007~~  
LOVELOCK CORR. CTR.  
1200 PRISON RD., LOVELOCK, NV 89419

PLAINTIFF, In Propria Persona

REC'D & FILED

2017 FEB -8 AM 10:30

SUSAN MERRINE  
Electronically Filed  
Feb 13 2017 02:15 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF CARSON CITY

TRACEY W. VICKERS

Plaintiff,

VS.

JAMES E. AZURENDA, DIRECTOR,  
WDC: AND HAROLD WILKINSON,  
WARDEN, WSCC,  
Defendant.

CASE No. 16EW00137-1B

DEPT. No. 2

Dkt. No. \_\_\_\_\_

NOTICE OF APPEAL

Please take notice that TRACEY W. VICKERS, Plaintiff, and in his proper person, hereby appeals to the Nevada Court of Appeals, the judgment(s) in the above-entitled action(s) entered in this Honorable Court on or about the 3 day of Feb 20, 17. This notice of Appeal is timely filed pursuant to NRAP 4(b).

DATED this 6 day of February, 20 17.

RESPECTFULLY SUBMITTED,

  
PLAINTIFF, In Propria Persona

TRACEY W. VICKERS, # 1143756

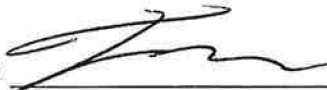
**CERTIFICATE OF MAILING**

I, Tracey W. Vickers, certify under the penalties of perjury, that service was made of this NOTICE OF APPEAL & DESIGNATION OF RECORD ON APPEAL, pursuant to NRCP 5(b), by placing same in the United States mail, postage prepaid and addressed as follows:

Ms. Heather S. Proctor, Esq.  
OFFICE OF THE ATTORNEY GENERAL  
SPECIAL PROSECUTIONS UNIT  
100 NORTH CARSON STREET  
CARSON CITY, NEVADA 89701-4717  
(Copy to)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATED this 6 day of February, 20 17

BY: 

Appellant, In Proper Person

Tracey W. Vickers, # 1143756

REC'D & FILED

2017 FEB -8 PM 2:05

SUSAN MERRIWETHER  
CLERK

BY *[Signature]*  
DEPUTY

**In The First Judicial District Court of the State of Nevada**  
**In and for Carson City**

TRACEY W. VICKERS,

Petitioner(s),

vs.

JAMES E. DZURENDA, DIRECTOR,  
NEVADA DEPARTMENT OF  
CORRECTIONS (NDOC); AND HAROLD  
WICKHAM, WARDEN, WARM SPRINGS  
CORRECTIONAL CENTER (WSCC),  
Respondent(s).

Case No.: 16 EW 00139 1B

Dept. No.: II

**CASE APPEAL STATEMENT**

1. Name of appellant filing this case appeal statement:

- TRACEY W. VICKERS

2. Identify the judge issuing the decision, judgment, or order appealed from:

- HONORABLE JAMES E. WILSON, JR.

3. Identify each appellant and the name and address of counsel for each appellant:

- TRACEY W. VICKERS #1143756 (PROPER PERSON)  
P.O. BOX 7007  
CARSON CITY, NV 89702

4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):

- JAMES E. DZURECTOR, NEVADA DEPARTMENT OF CORRECTIONS  
HAROLD WICKHAM, WARDEN, WARM SPRINGS CORRECTIONAL  
CENTER

ADAM PAUL LAXALT, ATTORNEY GENERAL (COUNSEL FOR DEFTS)  
100 NORTH CARSON STREET  
CARSON CITY, NV 89701-4717

5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):
- NOT APPLICABLE
6. Indicate whether appellant was represented by appointed or retained counsel in the district court:
- APPELLANT IN PROPER PERSON IN DISTRICT COURT
7. Indicate whether appellant is represented by appointed or retained counsel on appeal:
- APPELLANT IN PROPER PERSON ON APPEAL
8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:
- NOT APPLICABLE
9. Indicate the date the proceedings commenced in the district court (e.g., date complaint, indictment, information, or petition was filed):
- PETITION FOR WRIT OF HABEAS CORPUS GOOD AND WORK TIME, MERITORIOUS AWARD CALCULATIONS FILED AUG. 19, 2016
10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:
- ORDER FILED FEB. 3, 2017
11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:
- NOT APPLICABLE



1 12. Indicate whether this appeal involves child custody or visitation:

2 - NOT APPLICABLE

3 13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

4 - NOT APPLICABLE.

5 Dated this 8th day of February, 2017.

6 SUSAN MERRIWETHER, Carson City Clerk  
7 885 E. Musser St., #3031  
8 Carson City, NV 89701

9 By , Deputy  
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Judge: WILSON JR, JAMES E

Case No. 16 EW 00139 1B  
Ticket No.  
CTN:

VICKERS, TRACEY W

By:

-vs-

DZURENDA, JAMES E

DRSPND

By: LAXALT, ADAM PAUL  
100 NORTH CARSON STREET  
CARSON CITY, NV 89701

Dob:  
Lic:  
NEVADA DEPARTMENT OF  
CORRECTIONS

Sex:  
Sid:  
DRSPND

By: LAXALT, ADAM PAUL  
100 NORTH CARSON STREET  
CARSON CITY, NV 89701

Dob:  
Lic:  
WARM SPRINGS CORRECTIONAL  
CENTER

Sex:  
Sid:  
DRSPND

By: LAXALT, ADAM PAUL  
100 NORTH CARSON STREET  
CARSON CITY, NV 89701

Dob:  
Lic:  
WICKHAM, HAROLD

Sex:  
Sid:  
DRSPND

By: LAXALT, ADAM PAUL  
100 NORTH CARSON STREET  
CARSON CITY, NV 89701

Dob:  
Lic:

Sex:  
Sid:

Plate#:  
Make:  
Year:  
Type:  
Venue:  
Location:

Accident:

VICKERS, TRACEY W

PLNTPET

Bond:  
Type: Set:  
Posted:

Charges:

Ct.  
Offense Dt:  
Arrest Dt:  
Comments:

Cvr:

Ct.  
Offense Dt:  
Arrest Dt:  
Comments:

Cvr:

Ct.  
Offense Dt:  
Arrest Dt:  
Comments:

Cvr:

Ct.  
Offense Dt:  
Arrest Dt:  
Comments:

Cvr:

Sentencing:


No.	Filed	Action	Operator	Fine/Cost	Due
1	02/08/17	AMENDED NOTICE OF ENTRY OF DECISION OR ORDER	1BCCOOPER	0.00	0.00
2	02/08/17	CASE APPEAL STATEMENT	1BJHIGGINS	0.00	0.00
3	02/08/17	DESIGNATION OF RECORD ON APPEAL	1BVANESSA	0.00	0.00
4	02/08/17	NOTICE OF APPEAL FILED	1BVANESSA	24.00	0.00
5	02/07/17	NOTICE OF ENTRY OF DECISION OR ORDER	1BCCOOPER	0.00	0.00
6	02/06/17	CASE CLOSED	1BCGRIBBLE	0.00	0.00
7	02/03/17	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BCGRIBBLE	0.00	0.00
8	02/03/17	ORDER	1BCGRIBBLE	0.00	0.00
9	02/01/17	REQUEST FOR SUBMISSION	1BVANESSA	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
10	01/17/17	DISCLOSURE OF EX PARTE COMMUNICATION	1BVANESSA	0.00	0.00
11	12/15/16	RETURN	1BCGRIBBLE	0.00	0.00
12	12/13/16	NOTICE OF CHANGE OF ADDRESS	1BCGRIBBLE	0.00	0.00
13	11/07/16	REQUEST FOR SUBMISSION	1BCGRIBBLE	0.00	0.00
14	11/07/16	MOTION TO DISMISS	1BCGRIBBLE	0.00	0.00
15	10/26/16	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BCCOOPER	0.00	0.00
16	10/26/16	ORDER DENYING MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS	1BCCOOPER	0.00	0.00
17	10/11/16	ACCOUNT STATEMENT	1BJULIEH	0.00	0.00
18	09/29/16	NOTICE OF APPEARANCE FOR RESPONDENT	1BCGRIBBLE	0.00	0.00
19	09/26/16	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BJULIEH	0.00	0.00
20	09/26/16	ORDER REQUIRING RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS	1BJULIEH	0.00	0.00
21	09/26/16	ORDER ON MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS	1BJULIEH	0.00	0.00
22	09/23/16	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BJULIEH	0.00	0.00
23	09/23/16	ORDER DENYING MOTION FOR APPOINTMENT OF COUNSEL	1BJULIEH	0.00	0.00
24	09/14/16	PETITIONERS REQUEST FOR SUBMISSION OF PETITION FOR WRIT OF HABEAS CORPUS (COMPUTATION TIME-CREDITS)	1BCCOOPER	0.00	0.00
25	08/19/16	INMATE REQUEST/FILING - CIVIL (NEW FILING)	1BVANESSA	0.00	0.00
26	08/19/16	MOTION FOR APPOINTMENT OF COUNSEL PURSUANT TO N.R.S.34.750	1BVANESSA	0.00	0.00
27	08/19/16	PETITION FOR WRIT OF HABEAS CORPUS (GOOD AND WORK TIME, MERITORIOUS AWARD CALCULATIONS)	1BVANESSA	0.00	0.00
28	08/19/16	AFFIDAVIT IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS	1BVANESSA	0.00	0.00
29	08/19/16	MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS	1BVANESSA	0.00	0.00
Total:				24.00	0.00
Totals By: COST				24.00	0.00
INFORMATION				0.00	0.00
*** End of Report ***					

REC'D & FILED

2017 FEB -3 PM 1:49

SUSAN MERRIWETHER  
CLERK

BY  DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR CARSON CITY

TRACY W. VICKERS,

Petitioner,

vs.

JAMES E. DZURENDA, HAROLD  
WICKHAM, et al

Respondents.

Case No. 16 EW 00139 1B

Dept. No. 2

**ORDER**

THIS MATTER comes before the Court on petitioner Tracey W. Vickers' petition for writ of habeas corpus. This Court has reviewed all pleadings, documents and exhibits on file in the above-entitled matter. Based on this review, the Court makes the following findings of fact, conclusions of law, and order.

Vickers is incarcerated with the Nevada Department of Corrections (NDOC) after being convicted in the Eighth Judicial District Court of battery with use of a deadly weapon, a category B felony in violation of NRS 200.481, committed on February 27, 2014.

On August 19, 2016, Vickers filed the present post-conviction petition for writ of habeas corpus in which he alleged (1) he earned an additional 140 days while working in the Clark County Detention Center (CCDC), and a total of 200 days credit for the period served on probation, for a total of 280 days that have not been credited; (2) he should receive 960 days credit for the period he was willing to work and/or study in prison; and (3) the NDOC failed to apply good-time credits to Vickers' minimum term of imprisonment.

1 NRS 34.720(2) authorizes the filing of post-conviction petition for a writ of habeas corpus that  
2 challenges the computation of time a petitioner has served pursuant to a judgment of conviction.  
3 However, Vickers fails to state any claim that, if true, would entitle him to relief. *See Hargrove v.*  
4 *State*, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984).

5 First, Vickers alleges he earned an additional 140 days while working in the Clark County  
6 Detention Center (CCDC).

7 Any such employment occurred while Vickers was incarcerated in CCDC. Vickers cannot  
8 challenge his presentence credits in his current state habeas petition. Petitions challenging pre-trial  
9 detention credits are properly filed in the county of conviction and not the county of confinement, since  
10 they challenge the “judgment or sentence” and not the “computation of time served.” *Griffin v. State*,  
11 137 P.3d 1165, 1169, 122 Nev. 737, 743-44 (2006).

12 Vickers was sentenced in the Eighth Judicial District Court, not the First Judicial District Court.  
13 In his petition, Vickers challenges both the calculation of his credits, which are properly raised in the  
14 county of the petitioner’s confinement, as well as presentence credits, which must be filed in the county  
15 in which the conviction occurred. NRS 34.738(1). This Court finds it lacks jurisdiction over this claim  
16 and the claim is therefore dismissed.

17 Second, Vickers alleges he is owed additional time for the period he served on probation.  
18 However, an inmate is not entitled to credit for time spent on probation outside of incarceration. *See*  
19 *Webster v. State*, 109 Nev. 1084, 1085, 864 P.2d 294, 295 (1993); *Merna v. State*, 95 Nev. 144, 145,  
20 591 P.2d 252, 253 (1979). This Court will deny this claim.

21 Third, Vickers alleges he should have received 960 days credit for the period he was willing and  
22 able to work and participate in programs.

23 Whether Vickers states a cognizable claim for relief is governed solely by NRS 34.720 *et. seq.*  
24 and the Nevada Supreme Court’s rulings addressing the availability of habeas relief in Nevada.  
25 NRS 34.720 *et seq.*; *see also J.E. Dunn Northwest, Inc. v. Corus Const. Venture, LLC*, \_\_ Nev. \_\_, 249  
26 P.3d 501 (2011) (Nevada courts should not go beyond the plain language of a statute when the meaning  
27 of the statute is clear on its face); *McConnell v. State*, 125 Nev. 243, 247, 212 P.2d 307, 310 (2009) (the  
28 goal of statutory interpretation is determining the legislative intent behind the statute, which is derived

1 from reviewing the plain language of the statute).

2 In Nevada, the availability of post-conviction habeas relief is limited by statute to “[a]ny person  
3 convicted of a crime and under sentence of death or imprisonment” who challenges the validity of their  
4 confinement by requesting relief “from a judgment of conviction or sentence in a criminal case” or by  
5 challenging “the computation of time that the petitioner has served pursuant to a judgment of  
6 conviction.” NRS 34.720; NRS 34.724. Nevada’s post-conviction petition for writ of habeas corpus is  
7 not a proper means for an inmate to challenge conditions of confinement, including his placement in a  
8 more restrictive correctional setting. *Bowen v. Warden*, 100 Nev. 489, 490, 686 P.2d 250, 250 (1984)  
9 (in addressing “the specific question raised by this appeal, whether the *imposition of a qualitatively*  
10 *more restrictive type of confinement* within the prison, such as punitive segregation, may be challenged  
11 by a petition for writ of habeas corpus[; w]e now hold such a challenge *speaks only to the conditions of*  
12 *confinement* and therefore may not be raised by a habeas corpus petition.” (emphasis added)).

13 The Court finds Vickers’ current claim is not a challenge to the validity of Vickers’  
14 confinement as prescribed by NRS 34.720 and NRS 34.724. Vickers does not challenge any alleged  
15 loss of time credits that he has *already earned*, or that he “has served pursuant to the judgment of  
16 conviction” that was “improperly calculated.” NRS 34.724(1). Rather, Vickers challenges his  
17 conditions of his confinement – the alleged failure of the NDOC to provide him a job or participate in  
18 unspecified programs – which does not fall within the scope of a claim for post-conviction habeas relief  
19 in Nevada. *Bowen*.

20 Even if this claim was cognizable, the Court finds there is no statutory requirement that the  
21 NDOC must provide Vickers with a job so that he can earn work credits.

22 Fourth and finally, Vickers alleges the NDOC improperly calculated his minimum sentence  
23 pursuant to NRS 209.4465(1)(a) in violation of the unpublished decision in *Vonseydewitz v. LeGrand*,  
24 No. 66159, 2015 WL 3936827 (Nev. June 24, 2015) (unpublished).

25 Initially, reliance on an unpublished decision should not be relied upon as persuasive or  
26 mandatory precedent. See NRAP 36(c)(2)-(3). Furthermore, nothing in the unpublished *Vonseydewitz*  
27 opinion directs NDOC to review or modify any sentences or credit calculations for any offender other  
28 than inmate Vonseydewitz. See *Vonseydewitz*, 2015 WL 3936827.

1 Further, in 2007, the Legislature in Assembly Bill 510 (AB 510) amended NRS 209.4465. The  
2 Legislature amended subsection 7 to read: “*Except as otherwise provided in subsection 8, credits*  
3 *earned pursuant to this section: ....*” 2007 Nev. Stat., ch. 525, § 5, at 3177 (emphasis added). The  
4 Legislature also added subsection 8, which stated:

5 ... 8. Credits earned pursuant to this section by an offender who has *not*  
6 been convicted of:

- 7 (a) Any crime that is punishable as a felony involving the use or  
8 threatened use of force or violence against the victim;  
9 (b) A sexual offense that is punishable as a felony;  
10 (c) A violation of NRS 484.379, 484.3795 or 484.37955 that is  
11 punishable as a felony; or  
12 (d) A category A or B felony,

~ apply to eligibility for parole and must be deducted from the minimum  
term imposed by the sentence until the offender becomes eligible for  
parole and must be deducted from the maximum term imposed by the  
sentence.

13 *Id.* (emphasis added). Offenders excluded by the provisions in NRS 209.4465(8)(a)-(d) can only  
14 receive credit towards their maximum term of imprisonment. NRS 209.4465(7); NRS 213.120(2).

15 Vickers is serving time for a category B felony committed in 2014, after the 2007 effective date  
16 for the amendments to NRS 209.4465. Therefore, the post-2007 version of NRS 209.4465 applies to  
17 Vickers. Pursuant to the plain language of post-2007 NRS 209.4465, subsection 7 applies only if  
18 subsection 8 does not. In subsection 8, the statute clearly addresses an inmate such as Vickers who was  
19 convicted of a crime that is punishable as a felony involving the use of force against the victim,  
20 category B felony, and prohibits deduction of credits from that inmate’s minimum term. *See also* NRS  
21 213.120; *see also* 2007 Nev. Stat., ch. 525, § 21, at 3196.

22 Vickers’ petition is not pleaded with specificity and he fails to provide any support for his  
23 claims. *See Hargrove*, 110 Nev. at 502. Accordingly, this Court finds Vickers’ petition for writ of  
24 habeas corpus fails to state a claim upon which relief can be granted.

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28 ///

1 The Court deeming itself fully informed,

2 IT IS HEREBY ORDERED that Vickers' petition for writ of habeas corpus is **DISMISSED**.

3 ORDERED this 2 day of February, 2017.

4  
5  
6   
DISTRICT JUDGE



**CERTIFICATE OF SERVICE**

I certify that I am an employee of the First Judicial District Court of Nevada; that on the 3  
day of February, 2017, I served a copy of this document by placing a true and correct copy addressed  
to:


Heather Proctor, DAG	Tracy Vickers, #1143756
100 N. Carson Street	Lovelock Correctional Institute
Carson City, NV 89701	1200 Prison Road
	Lovelock, NV 89419

the envelope sealed and then deposited in the Court's central mailing basket in the court clerk's office  
for delivery to the USPS at 1111 South Roop Street, Carson City, Nevada, for mailing and/or placed the  
document in the pick-up box located in the court clerk's office.

  
\_\_\_\_\_  
Judicial Assistant

REC'D & FILED  
2017 FEB -7 AM 8:47

SUSAN MERRIWETHER  
CLERK

BY  DEPUTY

**In The First Judicial District Court of the State of Nevada**  
**In and for Carson City**

TRACY W. VICKERS ,  
Plaintiff

vs

JAMES E. DZURENDA, HAROLD  
WICKHAM, ET AL. ,  
Defendant.

) Case No.: 16 EW 00139 1B

) Dept. No.: II

) **NOTICE OF ENTRY OF DECISION OR**  
) **ORDER**

PLEASE TAKE NOTICE that on the 3RD day of FEBRUARY, 2017, 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 33 days  
after the date this Notice is mailed to you. This Notice was mailed on the 7TH day of  
FEBRUARY, 2017.

DATED this 7TH day of FEBRUARY, 2017.

SUSAN MERRIWETHER, Clerk

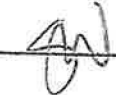
By , Deputy

cc: TRACY W. VICKERS  
N/A  
Adam Paul Laxalt, Attorney General  
JASON WOODBURY , District Attorney

REC'D & FILED

2017 FEB -3 PM 1:49

SUSAN MERRIWETHER  
CLERK

BY  DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR CARSON CITY

TRACY W. VICKERS,

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25 NRS 34.720 *et seq.*; *see also J.E. Dunn Northwest, Inc. v. Corus Const. Venture, LLC*, \_\_ Nev. \_\_, 249  
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4 confinement by requesting relief “from a judgment of conviction or sentence in a criminal case” or by  
5 challenging “the computation of time that the petitioner has served pursuant to a judgment of  
6 conviction.” NRS 34.720; NRS 34.724. Nevada’s post-conviction petition for writ of habeas corpus is  
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22 Fourth and finally, Vickers alleges the NDOC improperly calculated his minimum sentence  
23 pursuant to NRS 209.4465(1)(a) in violation of the unpublished decision in *Vonseydewitz v. LeGrand*,  
24 No. 66159, 2015 WL 3936827 (Nev. June 24, 2015) (unpublished).

25 Initially, reliance on an unpublished decision should not be relied upon as persuasive or  
26 mandatory precedent. See NRAP 36(c)(2)-(3). Furthermore, nothing in the unpublished *Vonseydewitz*  
27 opinion directs NDOC to review or modify any sentences or credit calculations for any offender other  
28 than inmate Vonseydewitz. See *Vonseydewitz*, 2015 WL 3936827.

1 Further, in 2007, the Legislature in Assembly Bill 510 (AB 510) amended NRS 209.4465. The  
2 Legislature amended subsection 7 to read: "*Except as otherwise provided in subsection 8, credits*  
3 *earned pursuant to this section: ....*" 2007 Nev. Stat., ch. 525, § 5, at 3177 (emphasis added). The  
4 Legislature also added subsection 8, which stated:

5 ... 8. Credits earned pursuant to this section by an offender who has *not*  
6 been convicted of:

- 7 (a) Any crime that is punishable as a felony involving the use or  
8 threatened use of force or violence against the victim;
- 9 (b) A sexual offense that is punishable as a felony;
- 10 (c) A violation of NRS 484.379, 484.3795 or 484.37955 that is  
11 punishable as a felony; or
- 12 (d) A category A or B felony,

13 ~ apply to eligibility for parole and must be deducted from the minimum  
14 term imposed by the sentence until the offender becomes eligible for  
15 parole and must be deducted from the maximum term imposed by the  
16 sentence.

17 *Id.* (emphasis added). Offenders excluded by the provisions in NRS 209.4465(8)(a)-(d) can only  
18 receive credit towards their maximum term of imprisonment. NRS 209.4465(7); NRS 213.120(2).

19 Vickers is serving time for a category B felony committed in 2014, after the 2007 effective date  
20 for the amendments to NRS 209.4465. Therefore, the post-2007 version of NRS 209.4465 applies to  
21 Vickers. Pursuant to the plain language of post-2007 NRS 209.4465, subsection 7 applies only if  
22 subsection 8 does not. In subsection 8, the statute clearly addresses an inmate such as Vickers who was  
23 convicted of a crime that is punishable as a felony involving the use of force against the victim,  
24 category B felony, and prohibits deduction of credits from that inmate's minimum term. *See also* NRS  
25 213.120; *see also* 2007 Nev. Stat., ch. 525, § 21, at 3196.

26 Vickers' petition is not pleaded with specificity and he fails to provide any support for his  
27 claims. *See Hargrove*, 110 Nev. at 502. Accordingly, this Court finds Vickers' petition for writ of  
28 habeas corpus fails to state a claim upon which relief can be granted.

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1 The Court deeming itself fully informed,

2 IT IS HEREBY ORDERED that Vickers' petition for writ of habeas corpus is **DISMISSED**.

3 ORDERED this 2 day of February, 2017.

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6 DISTRICT JUDGE  
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CERTIFICATE OF SERVICE

I certify that I am an employee of the First Judicial District Court of Nevada; that on the 3  
day of February, 2017, I served a copy of this document by placing a true and correct copy addressed  
to:

Heather Proctor, DAG  
100 N. Carson Street  
Carson City, NV 89701

Tracy Vickers, #1143756  
Lovelock Correctional Institute  
1200 Prison Road  
Lovelock, NV 89419

the envelope sealed and then deposited in the Court's central mailing basket in the court clerk's office  
for delivery to the USPS at 1111 South Roop Street, Carson City, Nevada, for mailing and/or placed the  
document in the pick-up box located in the court clerk's office.

  
Judicial Assistant



REC'D & FILED

2017 FEB -8 PM 2:18

SUSAN MERRIWETHER  
CLERK

DEPUTY

**In The First Judicial District Court of the State of Nevada**  
**In and for Carson City**

TRACEY W. VICKERS,  
Plaintiff

vs

JAMES E. DZURENDA, and HAROLD  
WICKHAM, et al. ,  
Defendant.

) Case No.: 16 EW 00139 1B

) Dept. No.: II

) **AMENDED**  
) **NOTICE OF ENTRY OF DECISION OR**  
) **ORDER**

PLEASE TAKE NOTICE that on the 7 day of FEBRUARY, 2017, 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 33 days after the date this Notice is mailed to you. This Notice was mailed on the 8TH day of FEBRUARY, 2017.

DATED this 8<sup>TH</sup> day of FEBRUARY, 2017.

SUSAN MERRIWETHER, Clerk


By \_\_\_\_\_, Deputy

cc: TRACY W. VICKERS  
JAMES E. DZURENDA  
HAROLD WICKHAM  
Adam Paul Laxalt, Attorney General  
JASON WOODBURY, District Attorney

REC'D & FILED

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SUSAN HERRIWETHER  
CLERK

BY  DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR CARSON CITY

TRACY W. VICKERS,

Petitioner,

vs.

JAMES E. DZURENDA, HAROLD  
WICKHAM, et al

Respondents.

Case No. 16 EW 00139 1B

Dept. No. 2

**ORDER**

THIS MATTER comes before the Court on petitioner Tracey W. Vickers' petition for writ of habeas corpus. This Court has reviewed all pleadings, documents and exhibits on file in the above entitled matter. Based on this review, the Court makes the following findings of fact, conclusions of law, and order.

Vickers is incarcerated with the Nevada Department of Corrections (NDOC) after being convicted in the Eighth Judicial District Court of battery with use of a deadly weapon, a category B felony in violation of NRS 200.481, committed on February 27, 2014.

On August 19, 2016, Vickers filed the present post-conviction petition for writ of habeas corpus in which he alleged (1) he earned an additional 140 days while working in the Clark County Detention Center (CCDC), and a total of 200 days credit for the period served on probation, for a total of 280 days that have not been credited; (2) he should receive 960 days credit for the period he was willing to work and/or study in prison; and (3) the NDOC failed to apply good-time credits to Vickers' minimum term of imprisonment.

1 NRS 34.720(2) authorizes the filing of post-conviction petition for a writ of habeas corpus that  
2 challenges the computation of time a petitioner has served pursuant to a judgment of conviction.  
3 However, Vickers fails to state any claim that, if true, would entitle him to relief. *See Hargrove v.*  
4 *State*, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984).

5 First, Vickers alleges he earned an additional 140 days while working in the Clark County  
6 Detention Center (CCDC).

7 Any such employment occurred while Vickers was incarcerated in CCDC. Vickers cannot  
8 challenge his presentence credits in his current state habeas petition. Petitions challenging pre-trial  
9 detention credits are properly filed in the county of conviction and not the county of confinement, since  
10 they challenge the “judgment or sentence” and not the “computation of time served.” *Griffin v. State*  
11 137 P.3d 1165, 1169, 122 Nev. 737, 743-44 (2006).

12 Vickers was sentenced in the Eighth Judicial District Court, not the First Judicial District Court.  
13 In his petition, Vickers challenges both the calculation of his credits, which are properly raised in the  
14 county of the petitioner’s confinement, as well as presentence credits, which must be filed in the county  
15 in which the conviction occurred. NRS 34.738(1). This Court finds it lacks jurisdiction over this claim  
16 and the claim is therefore dismissed.

17 Second, Vickers alleges he is owed additional time for the period he served on probation.  
18 However, an inmate is not entitled to credit for time spent on probation outside of incarceration. *See*  
19 *Webster v. State*, 109 Nev. 1084, 1085, 864 P.2d 294, 295 (1993); *Merna v. State*, 95 Nev. 144, 145  
20 591 P.2d 252, 253 (1979). This Court will deny this claim.

21 Third, Vickers alleges he should have received 960 days credit for the period he was willing and  
22 able to work and participate in programs.

23 Whether Vickers states a cognizable claim for relief is governed solely by NRS 34.720 *et. seq.*  
24 and the Nevada Supreme Court’s rulings addressing the availability of habeas relief in Nevada.  
25 NRS 34.720 *et seq.*; *see also J.E. Dunn Northwest, Inc. v. Corus Const. Venture, LLC*, \_\_\_ Nev. \_\_\_, 249  
26 P.3d 501 (2011) (Nevada courts should not go beyond the plain language of a statute when the meaning  
27 of the statute is clear on its face); *McConnell v. State*, 125 Nev. 243, 247, 212 P.2d 307, 310 (2009) (the  
28 goal of statutory interpretation is determining the legislative intent behind the statute, which is derived

1 Further, in 2007, the Legislature in Assembly Bill 510 (AB 510) amended NRS 209.4465. The  
2 Legislature amended subsection 7 to read: “*Except as otherwise provided in subsection 8, credits*  
3 *earned pursuant to this section: ...*” 2007 Nev. Stat., ch. 525, § 5, at 3177 (emphasis added). The  
4 Legislature also added subsection 8, which stated:

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17 *Id.* (emphasis added). Offenders excluded by the provisions in NRS 209.4465(8)(a)-(d) can only  
18 receive credit towards their maximum term of imprisonment. NRS 209.4465(7); NRS 213.120(2).

19 Vickers is serving time for a category B felony committed in 2014, after the 2007 effective date  
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21 Vickers. Pursuant to the plain language of post-2007 NRS 209.4465, subsection 7 applies only to  
22 subsection 8 does not. In subsection 8, the statute clearly addresses an inmate such as Vickers who was  
23 convicted of a crime that is punishable as a felony involving the use of force against the victim  
24 category B felony, and prohibits deduction of credits from that inmate’s minimum term. *See also* NRS  
25 213.120; *see also* 2007 Nev. Stat., ch. 525, § 21, at 3196.

26 Vickers’ petition is not pleaded with specificity and he fails to provide any support for his  
27 claims. *See Hargrove*, 110 Nev. at 502. Accordingly, this Court finds Vickers’ petition for writ of  
28 habeas corpus fails to state a claim upon which relief can be granted.

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1 The Court deeming itself fully informed,  
2 IT IS HEREBY ORDERED that Vickers' petition for writ of habeas corpus is **DISMISSED**.  
3 ORDERED this 2 day of February, 2017.

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6 DISTRICT JUDGE  
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CERTIFICATE OF SERVICE

I certify that I am an employee of the First Judicial District Court of Nevada; that on the 3  
day of February, 2017, I served a copy of this document by placing a true and correct copy addressed  
to:

Heather Proctor, DAG  
100 N. Carson Street  
Carson City, NV 89701

Tracy Vickers, #1143756  
Lovelock Correctional Institute  
1200 Prison Road  
Lovelock, NV 89419

the envelope sealed and then deposited in the Court's central mailing basket in the court clerk's office  
for delivery to the USPS at 1111 South Roop Street, Carson City, Nevada, for mailing and/or placed the  
document in the pick-up box located in the court clerk's office.

  
Judicial Assistant

## DISTRICT COURT CIVIL COVER SHEET

REC'D &amp; FILED

CARSON CITY County, Nevada

Case No.

10 EW 001391B

2018 AUG 19 PM 2:22

SUSAN HERRINGTON  
CLERK

## I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): PETITIONER

TRACEY W. VICKERS, NDOC # 1143756  
WARM SPRINGS CORRECTIONAL CENTER  
3301 EAST FIFTH STREET - PO BOX 7007  
CARSON CITY, NEVADA 89702-7007

Defendant(s) (name/address/phone): RE: DEFENDANTS

JAMES E. LIZURENDA, ASST. ATTORNEY GENERAL  
AND HAROLD WICKHAM, WARDEN, WISC  
% NEVADA DEPARTMENT OF CORRECTIONS (NDOC)  
5500 SNYDER AVENUE - PO BOX 7011  
CARSON CITY, NEVADA 89702

Attorney (name/address/phone):

PETITIONER, IN PROPER PERSON

Attorney (name/address/phone):

ADAM P. LAYNE, ESQ. (ATTORNEY GENERAL)  
OFFICE OF THE ATTORNEY GENERAL  
BUREAU OF CRIMINAL JUSTICE  
100 NORTH CARSON STREET - PO BOX 4717  
CARSON CITY, NEVADA 89701

## II. Nature of Controversy (please select the one most applicable filing type below)

## Civil Case Filing Types

Real Property	Torts	
<b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <b>Title to Property</b> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other title to property <b>Other Real Property</b> <input type="checkbox"/> condemnation/eminent domain <input type="checkbox"/> Other Real Property	<b>Negligence</b> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <b>Malpractice</b> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<b>Other Torts</b> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
<b>Probate</b> <b>Probate</b> (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <b>Estate Value</b> <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,00 or Unknown <input type="checkbox"/> Under \$2,500	<b>Construction defect &amp; Contract</b> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <b>Contract Case</b> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<b>Judicial Review/Appeal</b> <b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <b>Nevada State Agency Appeal</b> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<b>Civil Writ</b> <input checked="" type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant	<input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ	<b>Other Civil Filing</b> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

10 AUG 16

Date

Signature of initiating party or representative