

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

Electronically Filed
Apr 12 2022 01:32 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

LARRY HARDNETT,
Appellant(s),

vs.

BRIAN WILLIAMS, WARDEN; AND
WILLIAM HUTCHINGS, WARDEN,
Respondent(s),

LARRY HARDNETT,
Appellant(s),

vs.

BRIAN WILLIAMS, WARDEN; AND
WILLIAM HUTCHINGS, WARDEN,
Respondent(s),

Case No: A-16-748602-W
Related Case A-21-834858-W
Docket No: 83460-COA

Case No: A-16-748602-W
Related Case A-21-835317-W
Docket No: 83461-COA

RECORD ON APPEAL

ATTORNEY FOR APPELLANT
LARRY HARDNETT #1146775,
PROPER PERSON
P.O. BOX 208
INDIAN SPRINGS, NV 89070

ATTORNEY FOR RESPONDENT
AARON D. FORD,
ATTORNEY GENERAL
555 E. WASHINGTON AVE., STE. 3900
LAS VEGAS, NV 89101-1068

A-16-748602-W Larry Hardnett, Plaintiff(s) vs. Brian Williams Warden,
Defendant(s)

I N D E X

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I N D E X

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A-16-748602-0

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A-16-748602-W
PWHC
Petition for Writ of Habeas Corpus
4809478

Case No. ~~16-1777-2~~ U11
Dept. No. ~~16-1777-2~~



IN THE ^{8th} JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR THE COUNTY OF Clark

Larry Hardnett #1146775
Petitioner,

v.

Goodtime Habeas
PETITION FOR WRIT
OF HABEAS CORPUS
(POSTCONVICTION)

FILED
DEC 23 2016
Clerk of Court

Brian Williams - Warden
Respondent.

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
- 2. Name and location of court which entered the judgment of conviction under attack: ~~8th~~ 8th Judicial Court Clark County Nevada
- 3. Date of judgment of conviction: 1-16-2015
- 4. Case number: C-309793-2
- 5. (a) Length of sentence: 5-15 years consecutive to 4-12 years

RECEIVED
DEC 19 2016

11

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

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

3 Yes No

4 If "yes," list crime, case number and sentence being served at this time: *N/A*

5
6

7 7. Nature of offense involved in conviction being challenged: *Robbery w/ Deadly Weapon -*

8 *First Degree Kidnapping*

9 8. What was your plea? (check one)

10 (a) Not guilty

11 (b) Guilty

12 (c) Guilty but mentally ill

13 (d) Nolo contendere

14 9. If you entered a plea of guilty or guilty but mentally ill to one count of an indictment or information, and a
15 plea of not guilty to another count of an indictment or information, or if a plea of guilty or guilty but mentally ill was
16 negotiated, give details:

17

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

19 (a) Jury

20 (b) Judge without a jury

21 11. Did you testify at the trial? Yes No

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

23 13. If you did appeal, answer the following:

24 (a) Name of court:

25 (b) Case number or citation:

26 (c) Result:

27 (d) Date of result:

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

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

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 No

6 16. If your answer to No. 15 was "yes," give the following information:

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.)..... *N/A*

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: *NO*.....
17

18 (b) The proceedings in which these grounds were raised: *N/A*.....
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.) *N/A*.....
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.) *N/A*.....

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19. Are you filing this petition more than 1 year following the filing of the judgment of conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) *This is a*

Good Time Habeas

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

If yes, state what court and the case number: *C-309793-2*

21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on direct appeal: *N/A*

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

If yes, specify where and when it is to be served, if you know:

23. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary you may attach pages stating additional grounds and facts supporting same.

1 (a) Ground ONE: Prison failed to calculate Petitioners Good time
2 and good statutory deducted or for Eligibility for parole
3
4

5 Supporting FACTS (Tell your story briefly without citing cases or law.): I am being denied
6 of my 14th Amendment Rights to Due process of Law by
7 The failure of NDOC to deduct from the minimum (And Max-
8 imum) term of my sentence good time, I have earned just provide
9 the facts citing case law is not necessary my crime was
10 committed on (4-12-2015) I was sentence to 5 to 15 years with
11 a consecutive term of 4 to 12 years, Under Nrs. (209.4465) I am
12 entitled to have 20 days per month of statutory good time deducted
13 from the minimum and maximum term of my sentence, The NDOC
14 Has failed and or Refused to deduct 20 days Statutory goodtime
15 from my sentence Pursant to Nrap Rule 33(3)(c) I Rely upon the
16 decision of the N.V. Supreme Court In Van Seydewitz v. Legrand Nsc.
17 case No. 16159 as a persuasive Authority that I am Entitled
18 to Relief In This case.
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1 (b) Ground TWO: Prison failed to calculate petitioner good time and statutory
2 goodtime deducted or for Eligibility for parole in violation of the 14th
3 Amendment and article one section 8 of the Nev. Constitution
4 [Due process]

5 Supporting FACTS (Tell your story briefly without citing cases or law.): Petitioner is being
6 denied his Constitutional Rights to be free from ex post facto Law
7 under article 1 Sec. 1b of the Nev. Constitution by the application of the
8 Exclusionary provisions of section 8 of NRS 209.4465 (2007) to
9 deny me 20 days of statutory good time per month being deducted
10 from the minimum (and maximum) terms of my Sentence. Petitioner
11 Incorporate all of the facts contained in Ground one into this ground
12 for relief. The NDOC appears to be denying petitioner the 20 days a
13 month of statutory goodtime being deducted from the minimum
14 (and the maximum) terms of my sentence based on the exclusion
15 provisions of section 8 of NRS 209.4465. This is a violation of my
16 Expost facto Right. Petitioner rely upon the decisions in the
17 following cases to support my position in this ground for relief.
18 Weaver v. Graham, 450 U.S. 24 (1981) Stevens v. Nevada state prison,
19 969 P.2d 945 (Nv. 1991) and Goldworthy v. Hannitin, 468 P.2d 350 (1970).

1 (c) Ground THREE:

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

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(d) Ground FOUR:

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

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 12 day of the month of 16, 2016.

Larry Hardnett #1146775
* Larry Hardnett
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.

Larry Hardnett #1146775
* Larry Hardnett
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 preceding PETITION FOR WRIT OF HABEAS CORPUS filed in District Court Case Number C-15-309793-2 Does not contain the social security number of any person.

Larry Hardnett #1146775
* Larry Hardnett
High Desert State Prison
Post Office Box 650
Indian Springs, Nevada 89070
Petitioner in Proper Person

CERTIFICATE OF SERVICE BY MAIL

I, Larry Hardnett, hereby certify pursuant to N.R.C.P. 5(b), that on this 16 day of the month of December, 2016, I mailed a true and correct copy of the foregoing PETITION FOR WRIT OF HABEAS CORPUS addressed to:

D.W. Neven, Warden High Desert State Prison
Post Office Box 650
Indian Springs, Nevada 89070

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

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

Larry Hardnett #1146775
* Larry Hardnett
High Desert State Prison
Post Office Box 650
Indian Springs, Nevada 89070
Petitioner in Proper Person

* Print your name and NDOC back number and sign

Larry Hardnett #1146775
High Desert State Prison
Indian Springs, NV 89070
P.O. Box 650

Hasler
12/16/2016
US POSTAGE
FIRST CLASS MAIL
201557
ZIP 89103
1E12650516

CONFIDENTIAL
LEGAL MAIL

District Court Clerk
3rd Fl. 200 Lewis Ave.
89155 Las Vegas, NV

RECEIVED
DEC 15 2016
HIGH DESERT STATE PRISON
LAW LIBRARY



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OPWH - AB510

DISTRICT COURT
CLARK COUNTY, NEVADA

LARRY HARDNETT,

Petitioner(s),

vs.

BRIAN WILLIAMS, WARDEN,

Respondent(s).

Case No.: **A-16-748602-W**

Dept. No.: 7

ORDER FOR PETITION FOR WRIT OF HABEAS CORPUS

Petitioner filed a Petition for Writ of Habeas Corpus on December 23, 2016. The Court has reviewed the Petition and has determined a response would assist the Court in determining whether Petitioner has been awarded all appropriate good-time credits as provided in Assembly Bill 510 and, good cause appearing therefore,

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

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

DATED this 27th day of June, 2017.

HEARING DATE
ALREADY ENTERED
LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII



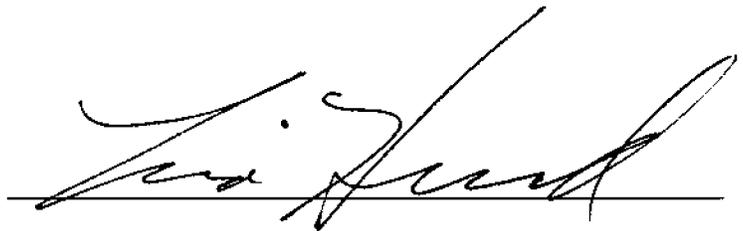

LINDA MARIE BELL
DISTRICT COURT JUDGE

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:

Larry Hardnett #1146775
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

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII



1 **RSPN**
2 ADAM PAUL LAXALT
3 Attorney General
4 Allison Herr (Bar No. 5383)
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) 486-3799 (phone)
11 (702) 486-2377 (fax)
12 AHerr@ag.nv.gov

13 Attorneys for Respondents

14 **DISTRICT COURT**
15 **CLARK COUNTY, NEVADA**

16 LARRY HARDNETT,
17 Petitioner,
18 vs.
19 BRIAN WILLIAMS, WARDEN, et. al,
20 Respondents.

Case No. A-16-748602-W

Dept. No. VII

Date of Hearing: 08/15/2017

Time of Hearing: 9:00 a.m.

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

22 Respondents oppose Petitioner Larry Hardnett's *Petition for Writ of Habeas Corpus*. The
23 petition should be denied as the Nevada Department of Corrections (NDOC) has awarded Hardnett
24 credit against his sentence in conformity with NRS 209.4465 and Hardnett has not presented evidence
25 that he is exempt from the application of NRS 209.4465(8).

26 This response is made and based upon the papers and pleadings on file herein and the following
27 points and authorities.

28 DATED this 14th day of August 2017.

ADAM PAUL LAXALT
Attorney General

By: /s/ Allison Herr
Allison Herr (Bar No. 5383)
Deputy Attorney General

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **BACKGROUND**

4 Larry Hardnett is currently incarcerated at High Desert State Prison (Exhibit 1, *Inmate Search*).
5 Hardnett is under sentence for crimes he committed in 2015 (Exhibit 2, *Information*). The Court
6 adjudicated Hardnett guilty of category A and B felonies (Exhibit 3, *Judgment of Conviction*). He is
7 currently serving an aggregated sentence of a maximum of twenty-seven years with minimum parole
8 eligibility after nine years and eight months (Exhibit 4, *Offender Legal Orders*).

9 **II.**

10 **ARGUMENT**

11 **A. Hardnett Misunderstands Applicable Law.**

12 Hardnett now claims that NDOC failed to apply his credit to his minimum sentences in
13 accordance with NRS 209.4465.

14 **1. Application of Credit Against Hardnett's Minimum Sentence is Prohibited by NRS**
15 **209.4465(8).**

16 NRS 209.4465 applies to Hardnett, whose crimes were committed after July 17, 1997.¹ Under
17 NRS 209.4465(8) an inmate who is convicted of a felony crime of violence, a felony sex offense, or,
18 who has been convicted of a category A or B felony, is not eligible to have his credits applied against
19 his parole eligibility or minimum sentence. NRS 209.4465(8)(a) and (d). Hardnett is in prison for a
20 category A and B felony. As such, his credit is governed by NRS 209.4465(8), which unequivocally
21 prohibits NDOC from applying credit to his minimum term or parole eligibility. *See also* NRS 213.120.

22 **2. The *Vonseydewitz* Decision Does Not Apply, as Hardnett's Crime Was Committed**
23 **After the 2007 Amendment of NRS 209.4465.**

24 Although Hardnett cites no statutory authority for his petition, he raises several of the
25 arguments first raised in the case of *Vonseydewitz vs. Legrand*, Case No. 66159, 2015 WL 3936827

26 _____
27 ¹ NRS 209.432 to 209.451, inclusive, provide the statutory framework for the application of
28 credit to an inmate's sentence. The appropriate statute is determined by the date that the crime was
committed.

1 (Nev. June 24, 2015). However, these arguments are not applicable to Hardnett’s case, as the law that
2 governed the application of *Vonseydewitz*’s credit is different from that to be applied here. Crucially,
3 the respective crimes of *Vonseydewitz* and Hardnett were committed during different years. The
4 Nevada Supreme Court has made clear that the *Vonseydewitz* decision does not affect crimes,
5 committed after July 1, 2007.² This is because the language of the applicable statutes— NRS 209.4465
6 and NRS 213.120—was amended in 2007 and negates the analysis applied in *Vonseydewitz*. Here
7 Hardnett’s offense took place in 2015, *after* the effective date of the 2007 amendment. Thus, even
8 viewing the *Vonseydewitz* opinion in the light most favorable to Hardnett, the logic of *Vonseydewitz*
9 does not apply to his crime, he is not entitled to additional credits, and his reliance upon the
10 *Vonseydewitz* decision is erroneous.

11 ///
12 ///
13 ///

20 ² Specifically, the Court stated, in an order denying *en banc* reconsideration, that *Vonseydewitz*
21 applies to:

22 Those [inmates convicted of] crimes committed on or between July 17,
23 1997 and June 30, 2007;
24 Where the inmate’s sentence does not fall under the parole limited
25 provisions of NRS 453.3405(1);
26 Where the sentence has not expired nor the inmate gone before the parole
27 board for that sentence, *see Niergarth v. Warden*, 105 Nev. 26, 29, 768
28 P.2d 882, 884 (1989);
And then only for the time period when deductions have not already been
applied retroactively pursuant to NRS 209.4465(8), *see* 2007 Nev. Stat.,
ch. 525 § 21, at 3196.

Vonseydewitz vs. Legrand, No. 66159, at n. 1 (Nev. Feb 19, 2016) (order denying *en banc* recon-
sideration).

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III.

CONCLUSION

This Court should deny Hardnett's *Petition for Writ of Habeas Corpus* as NDOC has applied all credit the Petitioner has earned, and his request for application of credit against his minimum parole eligibility is prohibited by law.

Respectfully submitted this 14th day of August 2017.

ADAM PAUL LAXALT
Attorney General

By: /s/ Allison Herr
Allison Herr (Bar No. 5383)
Deputy Attorney General

AFFIRMATION
(Pursuant to NRS 239B.030)

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

Dated: 14th day of August 2017.

ADAM PAUL LAXALT
Attorney General

By: /s/ Allison Herr
Allison Herr (Bar No. 5383)
Deputy Attorney General

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I electronically filed the foregoing *Response to Petition for Writ of Habeas*
3 *Corpus* with the Clerk of the Court by using the electronic filing system on the 14th day of August
4 2017.

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

9 Larry Hardnett, #1146775
10 c/o High Desert State Prison
11 P.O. Box 650
Indian Springs, Nevada 89070

12 /s/ K. Plett
13 An employee of the Office of the Attorney General

EXHIBIT 1

Inmate Search

Search By Offender ID

Offender ID: 0001146775

-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 2017-08-07

Identification and Demographics

Name	Offender ID	Gender	Ethnic	Age	Height	Weight	Build	Complexion	Hair	Eyes	Institution	Custody Level	Aliases	Prior Felonies
LARRY HARDNETT	1146775	Male	BLACK	23	6'1"	145lb		DARK	BLACK	BROWN	HIGH DESERT STATE PRISON	MEDIUM		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
3521	ATT POSSESSION STOLEN VEHICLE	Discharged	0 yr. 19 mo. 0 days	0 yr. 48 mo. 0 days	2016-01-17		CLARK COUNTY COURTHOUSE	2017-06-08	DETERMINATE		2015-02-03
A007	Aggregate	Active	9 yr. 0 mo. 0 days	27 yr. 0 mo. 0 days	2025-09-27	2029-05-07	AGGREGATE SENTENCING	2029-11-08	DETERMINATE		2016-01-28

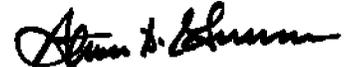
Inmate Photo Unavailable

Parole Hearing Details

Offender Book ID	Parole Hearing Date	Parole Hearing Location
169521	2016-04-27	PAROLE BOARD ROOM 301

EXHIBIT 2

Information


CLERK OF THE COURT

1 **INFM**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **JEFFREY S. ROGAN**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #010734**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

DISTRICT COURT
CLARK COUNTY, NEVADA

7 **I.A. 10/12/15**
8 **10:00 A.M.**
9 **GILL/ARNOLD**

9 **THE STATE OF NEVADA,**
10 **Plaintiff,**

CASE NO: C-15-309793-2

11 **-vs-**

DEPT NO: XVII

12 **MARCUS BURRELL,**
13 **aka Marcus Lavell Burrell,**
14 **aka Marcus N Da Cut, #2809000**

INFORMATION

14 **LARRY HARDNETTY,**
15 **aka Larry Hardnett,**
16 **aka Larry AOB,**
17 **aka Larry All on Bitches, #2865846**

Defendants.

18 **STATE OF NEVADA** }
19 **COUNTY OF CLARK** } **ss.**

20 **STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State**
21 **of Nevada, in the name and by the authority of the State of Nevada, informs the Court:**

22 **That MARCUS BURRELL, aka Marcus Lavell Burrell, aka Marcus N Da Cut, and**
23 **LARRY HARDNETTY, aka Larry Hardnett, aka Larry AOB, aka Larry All on Bitches, the**
24 **Defendant(s) above named, having committed the crimes of CONSPIRACY TO COMMIT**
25 **ROBBERY (Category B Felony - NRS 200.380, 199.480 - NOC 50147); FIRST DEGREE**
26 **KIDNAPPING WITH USE OF A DEADLY WEAPON WITH THE INTENT TO**
27 **PROMOTE, FURTHER OR ASSIST A CRIMINAL GANG (Category A Felony - NRS**
28 **200.310, 200.320, 193.165, 193.168 - NOC 50065); and ROBBERY WITH USE OF A**

1 **DEADLY WEAPON WITH THE INTENT TO PROMOTE, FURTHER OR ASSIST A**
2 **CRIMINAL GANG (Category B Felony - NRS 200.380, 193.165, 193.168 - NOC 50142),**
3 on or about the 12th day of April, 2015, within the County of Clark, State of Nevada, contrary
4 to the form, force and effect of statutes in such cases made and provided, and against the peace
5 and dignity of the State of Nevada,

6 **COUNT 1 - CONSPIRACY TO COMMIT ROBBERY**

7 did willfully, unlawfully, and feloniously conspire with each other to commit a robbery,
8 by the defendants committing the acts as set forth in Counts 2 through 5, said acts being
9 incorporated by this reference as though fully set forth herein.

10 **COUNT 2 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON WITH**
11 **THE INTENT TO PROMOTE, FURTHER OR ASSIST A CRIMINAL GANG**

12 did then and there willfully, unlawfully, feloniously, and knowingly, for the benefit of,
13 at the direction of, or in affiliation with, a criminal gang, to-wit: Bloods and/or Gerson Park
14 Kingsmen a/k/a GPK, which has as one of its common activities engaging in felonious criminal
15 activities other than the conduct which constitutes the primary offense, and the defendants
16 with specific intent to promote, further, or assist the activities of the Bloods and/or Gerson
17 Park Kingsmen a/k/a GPK, did willfully, unlawfully, and feloniously, seize, confine, inveigle,
18 entice, decoy, abduct, conceal, kidnap, or carry away TROY HASHIMOTO, a human being,
19 with the intent to hold or detain the said TROY HASHIMOTO against his will, and without
20 his consent, for the purpose of committing a robbery, with use of a deadly weapon, to-wit: a
21 firearm, the defendants being criminally liable under one or more of the following principles
22 of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or
23 abetting in the commission of this crime, with the intent that this crime be committed, by
24 counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the other
25 to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent
26 that this crime be committed; the defendants committing this crime in the following manner,
27 to-wit: by defendants luring TROY HASHIMOTO to the crime scene under the false pretense
28 of purchasing shoes, and thereafter accompanying one another to the crime scene, and, once

1 there, Defendant MARCUS BURRELL pointed a firearm at TROY HASHIMOTO while
2 Defendant LARRY HARDNETTY pointed a firearm at ALYSSA DELA CRUZ-CUIZON,
3 and demanded both turn over wallets, shoes, and cell phones to them, the defendants then
4 fleeing the scene together after taking the property, the defendants acting in concert
5 throughout.

6 **COUNT 3 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON WITH**
7 **THE INTENT TO PROMOTE, FURTHER OR ASSIST A CRIMINAL GANG**

8 did then and there willfully, unlawfully, feloniously, and knowingly, for the benefit of,
9 at the direction of, or in affiliation with, a criminal gang, to-wit: Bloods and/or Gerson Park
10 Kingsmen a/k/a GPK, which has as one of its common activities engaging in felonious criminal
11 activities other than the conduct which constitutes the primary offense, and the defendants
12 with specific intent to promote, further, or assist the activities of the Bloods and/or Gerson
13 Park Kingsmen a/k/a GPK, did willfully, unlawfully, and feloniously, seize, confine, inveigle,
14 entice, decoy, abduct, conceal, kidnap, or carry away ALYSSA DELA CRUZ-CUIZON, a
15 human being, with the intent to hold or detain the said ALYSSA DELA CRUZ-CUIZON
16 against her will, and without his consent, for the purpose of committing a robbery, with use of
17 a deadly weapon, to-wit: a firearm, the defendants being criminally liable under one or more
18 of the following principles of criminal liability, to-wit: (1) by directly committing this crime;
19 and/or (2) by aiding or abetting in the commission of this crime, with the intent that this crime
20 be committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise
21 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this
22 crime, with the intent that this crime be committed; the defendants committing this crime in
23 the following manner, to-wit: by defendants luring TROY HASHIMOTO to the crime scene
24 under the false pretense of purchasing shoes, and thereafter accompanying one another to the
25 crime scene, and, once there, Defendant MARCUS BURRELL pointed a firearm at TROY
26 HASHIMOTO while Defendant LARRY HARDNETTY pointed a firearm at ALYSSA

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1 DELA CRUZ-CUIZON, and demanded both turn over wallets, shoes, and cell phones to them,
2 the defendants then fleeing the scene together after taking the property, the defendants acting
3 in concert throughout.

4 **COUNT 4 - ROBBERY WITH USE OF A DEADLY WEAPON WITH THE INTENT TO**
5 **PROMOTE, FURTHER OR ASSIST A CRIMINAL GANG**

6 did then and there willfully, unlawfully, feloniously, and knowingly, for the benefit of,
7 at the direction of, or in affiliation with, a criminal gang, to-wit: Bloods and/or Gerson Park
8 Kingsmen a/k/a GPK, which has as one of its common activities engaging in felonious criminal
9 activities other than the conduct which constitutes the primary offense, and the defendants
10 with specific intent to promote, further, or assist the activities of the Bloods and/or Gerson
11 Park Kingsmen a/k/a GPK, did willfully, unlawfully, and feloniously take personal property,
12 to-wit: shoes, a wallet, and a cell phone, from the person of TROY HASHIMOTO, or in his
13 presence, by means of force or violence, or fear of injury to, and without the consent and
14 against the will of TROY HASHIMOTO, with use of a deadly weapon, to-wit: a firearm, the
15 defendants being criminally liable under one or more of the following principles of criminal
16 liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the
17 commission of this crime, with the intent that this crime be committed, by counseling,
18 encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit
19 the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this
20 crime be committed; the defendants committing this crime in the following manner, to-wit: by
21 defendants luring TROY HASHIMOTO to the crime scene under the false pretense of
22 purchasing shoes, and thereafter accompanying one another to the crime scene, and, once
23 there, Defendant MARCUS BURRELL pointed a firearm at TROY HASHIMOTO while
24 Defendant LARRY HARDNETTY pointed a firearm at ALYSSA DELA CRUZ-CUIZON,
25 and demanded both turn over wallets, shoes, and cell phones to them, the defendants then
26 fleeing the scene together after taking the property, the defendants acting in concert
27 throughout.

28 //

1 **COUNT 5 - ROBBERY WITH USE OF A DEADLY WEAPON WITH THE INTENT TO**
2 **PROMOTE, FURTHER OR ASSIST A CRIMINAL GANG**

3 did then and there willfully, unlawfully, feloniously, and knowingly, for the benefit of,
4 at the direction of, or in affiliation with, a criminal gang, to-wit: Bloods and/or Gerson Park
5 Kingsmen a/k/a GPK, which has as one of its common activities engaging in felonious criminal
6 activities other than the conduct which constitutes the primary offense, and the defendants
7 with specific intent to promote, further, or assist the activities of the Bloods and/or Gerson
8 Park Kingsmen a/k/a GPK, did willfully, unlawfully, and feloniously take personal property,
9 to-wit: shoes, a wallet, and a cell phone, from the person of TROY HASHIMOTO, or in his
10 presence, by means of force or violence, or fear of injury to, and without the consent and
11 against the will of TROY HASHIMOTO, with use of a deadly weapon, to-wit: a firearm, the
12 defendants being criminally liable under one or more of the following principles of criminal
13 liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the
14 commission of this crime, with the intent that this crime be committed, by counseling,
15 encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit
16 the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this
17 crime be committed; the defendants committing this crime in the following manner, to-wit: by
18 defendants luring TROY HASHIMOTO to the crime scene under the false pretense of
19 purchasing shoes, and thereafter accompanying one another to the crime scene, and, once
20 there, Defendant MARCUS BURRELL pointed a firearm at TROY HASHIMOTO while
21 Defendant LARRY HARDNETTY pointed a firearm at ALYSSA DELA CRUZ-CUIZON,
22 and demanded both turn over wallets, shoes, and cell phones to them, the defendants then

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1 fleeing the scene together after taking the property, the defendants acting in concert
2 throughout.

3 STEVEN B. WOLFSON
4 Clark County District Attorney
5 Nevada Bar #001565

6 BY /s//JEFFREY S. ROGAN
7 JEFFREY S. ROGAN
8 Chief Deputy District Attorney
9 Nevada Bar #010734

10 Names of witnesses known to the District Attorney's Office at the time of filing this
11 Information are as follows:

<u>NAME</u>	<u>ADDRESS</u>
CRUZ-CUIZON, ALYSSA	-1604 FIG PALM CT., LVN 89128
CUSTODIAN OF RECORDS	- CLARK COUNTY DETENTION CENTER
CUSTODIAN OF RECORDS	- LVMPD COMMUNICATIONS
CUSTODIAN OF RECORDS	- LVMPD RECORDS
DUNN, MICHAEL	- LVMPD P#13003
GUYER, JEFFREY	- LVMPD P#7430
HARDNETTY, LARRY	- 1701 J STREET, LVN 89106
HASIMOTO, TROY	- 1604 FIG PALM CT., LVN 89128
HONAKER, JAMIE	- DISTRICT ATTORNEY INVESTIGATOR
RAFALOVICH, MARCO	- DISTRICT ATTORNEY INVESTIGATOR

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27 15F07364A/B /mmw/GANG
28 LVMPD EV#1504122609
(TK14)

EXHIBIT 3

Judgment of Conviction

Sharon L. Johnson
CLERK OF THE COURT

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JOCP
1146775
2015-078351
HDSP

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

CASE NO. C309793-2
DEPT. NO. XVII

LARRY HARDNETT
aka Larry Hardnetty
aka Larry AOB
#2865846
Defendant.

JUDGMENT OF CONVICTION
(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of
COUNT 1 - CONSPIRACY TO COMMIT ROBBERY (Category B Felony) in violation
of NRS 200.380, 199.480; COUNTS 2 & 3 - FIRST DEGREE KIDNAPPING
(Category A Felony) in violation of NRS 200.310, 200.320; and COUNTS 4 & 5 -
ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of
NRS 200.380, 193.165; and the matter having been tried before a jury and the
Defendant having been found guilty of said crimes; thereafter, on the 28th day of

//

KF

1 January, 2016, the Defendant was present in court for sentencing with his counsel
2 CARL ARNOLD, ESQ., and good cause appearing,

3 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in
4 addition to the \$25.00 Administrative Assessment Fee, \$250.00 Indigent Defense Civil
5 Assessment Fee, Restitution in the amount of \$1,436.27 to be paid jointly and
6 severally, and a \$150.00 DNA Analysis Fee including testing to determine genetic
7 markers, plus a \$3.00 DNA Collection Fee, the Defendant is sentenced to the Nevada
8 Department of Corrections as follows: As to COUNT 1 - to a MAXIMUM of FORTY-
9 EIGHT (48) MONTHS with a MINIMUM parole eligibility of EIGHTEEN (18) MONTHS;
10 as to COUNT 2 - to a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS with a
11 MINIMUM parole eligibility of SIXTY (60) MONTHS, Count 2 to run CONCURRENT
12 with Count 1; as to COUNT 3 - to a MAXIMUM of ONE HUNDRED EIGHTY (180)
13 MONTHS with a MINIMUM parole eligibility of SIXTY (60) MONTHS, Count 3 to run
14 CONCURRENT with Count 1; as to COUNT 4 - to a MAXIMUM of SEVENTY-TWO
15 (72) MONTHS with a MINIMUM parole eligibility of TWENTY-EIGHT (28) MONTHS,
16 plus a CONSECUTIVE term of SEVENTY-TWO (72) MONTHS with a MINIMUM
17 parole eligibility of TWENTY-EIGHT (28) MONTHS for the Use of a Deadly Weapon,
18 Count 4 to run CONSECUTIVE to Count 2; and as to COUNT 5 - to a MAXIMUM of
19 SEVENTY-TWO (72) MONTHS with a MINIMUM parole eligibility of TWENTY-EIGHT
20 (28) MONTHS, plus a CONSECUTIVE term of SEVENTY-TWO (72) MONTHS with a
21 MINIMUM parole eligibility of TWENTY-EIGHT (28) MONTHS for the Use of a Deadly
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1 Weapon, Count 5 to run CONCURRENT with Count 3; with ZERO (0) days credit for
2 time served. Defendant's AGGREGATE TOTAL SENTENCE is THREE HUNDRED
3 TWENTY-FOUR (324) MONTHS MAXIMUM with a MINIMUM of ONE HUNDRED
4 SIXTEEN (116) MONTHS.
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8 DATED this 9 day of February, 2016.
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11 _____
12 MICHAEL VILLANI
13 DISTRICT COURT JUDGE *sd*
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26 CERTIFIED COPY
27 DOCUMENT ATTACHED IS A
28 TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE


CLERK OF THE COURT

EXHIBIT 4

Offender Legal Orders



**State of Nevada
Department of Corrections
OFFENDER LEGAL ORDERS**

HARDNETT, LARRY 1146775

Next Parole Expiration Date(NPD):

RECOMMENDED RELEASE DATE:

SENTENCE DATE	REFRO DATE	OFFENSE	DESCRIPTION	COUNT	SENTENCE SEC	SENTENCE CONSECUTIVE TO	MINIMUM	MAXIMUM	LIFE	STATUS	STATUS DATE	PEX	PEXD	MPD
CA AG_169521_9	01/28/2016	A007	Aggregate	1	9		0Y 3M 0D	27Y 0M 0D		A		09/27/2025	11/08/2029	05/07/2029
CA C306793-2	09/01/2026	3458	USE OF DEADLY WEAPON ENHANCEMENT	4	6	5	0Y 28M 0D	0Y 72M 0D		AG				
CA C306793-2	02/11/2019	3458	USE OF DEADLY WEAPON ENHANCEMENT	5	8	7	0Y 28M 0D	0Y 72M 0D		AG				
CA C306793-2	01/28/2016	120	ROBBERY	5	7		0Y 28M 0D	0Y 72M 0D		AG				
CA C306793-2	08/24/2023	120	ROBBERY	4	5	3	0Y 28M 0D	0Y 72M 0D		AG				
CA C288164-1	02/03/2015	3521	ATT POSSESSION STOLEN VEHICLE	1	1		0Y 19M 0D	0Y 48M 0D		D	01/17/2016	06/08/2017		
CA C306793-2	01/28/2016	2338	CONSPIRACY, VIOLENT CRIME	1	2		0Y 18M 0D	0Y 48M 0D		AG				
CA C309793-2	01/28/2016	187	KIDNAPPING I	3	4		0Y 60M 0D	0Y 180M 0D		AG				
CA C309793-2	01/28/2016	187	KIDNAPPING I	2	3		0Y 60M 0D	0Y 180M 0D		AG				

Sentence Statuses	
A	Active
D	Discharged
DCS	Discharge to Consecutive
DP	Paroled
I	Inactive
OT	Overturned
P	Pending
P257	PEND257
P1C	Parole to Consecutive
RE-AC1	Reactivated
SUSP	Suspended

Larry Hardnett
#11467750
H.D.S.P

FILED

NOV 02 2017

P.O. BOX-650

CLERK OF COURT

Indian Springs, NV
89070

A-16-748602-W
OPPS
Opposition
4695088



District Court

Clark County, Nevada

A-17-748602-W

Case No. A-16-748602

Larry Hardnett,
Petitioner,

Dept. No. VII

V.S.

Brian Williams, Warden, et al.

Time - 9-27th - 2017

Respondent(s)

Date - 8:00AM

RECEIVED
NOV 12 2017

CLERK OF THE COURT

Petitioners opposition to the respondents
response to petitioner for writ of Habeas corpus;

comes Now, Larry Hardnett, the petitioner, in pro-se
this court to deny respondents response pursuant
NRS. 209.4465(8)(d); NRS. 209.4465(7)(B) And NRS. 209.4465(A),
ere NDOC records does not reflect, the petitioner has been
vided 38% off the 9yrs to 27yrs; as so, mentioned above.

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CLERK OF THE COURT

CLERK OF THE COURT

Points And Authorities

(I)

209.4465(7)(B); Apply to Eligibility for parole unless the offender was sentenced pursuant to a statute which specifies Minimum sentence that must be served before a person comes Eligible for parole.

209.4465(8)(D); Category A or B felony; Apply eligibility for parole and, except as otherwise provided in subsection 9, "Must be deducted from the Minimum term or Minimum aggregate term imposed by the sentence, as applicable, until offender becomes eligible for parole and must be deducted from the Maximum term or the Maximum aggregate term imposed by sentence, as applicable.

209.4465(9)(A); Is serving a sentence for an offense committed "1 or after" July 1st, 2014,

The 2013 amendment, by ch. 64, k. effective July 1, substituted "subsections 8 and 9" for subsection 8" in the introductory language of (7); In (7)(A) and in the second paragraph of added "or the Maximum aggregate term" and added "as applicable" never it appears; In the second paragraph of (8), added except as otherwise provided in subsection 9" and "or the minimum aggregate term added (9).

Argument (II.)

During the relevant time period, Nrs. 209.4465 provided that statutory credits "apply to eligibility for parole." The statute also contained an exception: Credits would not apply to parole if the offender is sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole. Hardnett is sentenced pursuant to Nrs. 200.380, and Nrs. 193.165, which became an aggregate sentence which provides for a sentence of a "minimum term of not less than 9 yrs and a maximum of more than 27 yrs." Although Nrs. 200.380, and Nrs. 193.165 provide an aggregate of a minimum of not less than 9 yrs, it does not necessarily follow that it specified a minimum sentence that must be served before Hardnett becomes eligible for parole. "It's a duty of this court, when possible to interpret provisions within a common statutory scheme" harmoniously with one another in accordance with the general purpose of those statutes to avoid unreasonable or absurd results. Torrealba v. Kesmetis, 14 Nev. 11782, 3d 716, 321 (2008).

Other than relying on the meaning of the relevant statutes, the Attorney General turned to statutory history to rebut Hardnett's claims however, this is premature without first having established that the meaning of the statute is not plain. See McKay v. Bd. of Supervision of Carson City, 102 Nev. 644, 730 n.12 478 (01 1988).

the attorney general fails to engage in analysis of Nrs. 209.4465 in light of the time it was enacted, instead focusing on laws that predate the advent of Nrs. 209.4465. The attorney general's reference to statutory Amendments, which is also unpersuasive as he offers no evidence in support of his claims that he believes of subsequent legislative intent of the legislature that enacted the law in question. Maresca v. State, 103 Nev. 649, 673, 748. The attorney general's reliance on the canon of constitutional avoidance is also unavailing because it only comes into play when, after the application of ordinary textual analysis, the statute is found to be susceptible to more than one construction, and it is necessary to resort to the canon of constitutional avoidance.

2.
The Attorney General final argument is that Nrs. 213.120 language inhibited the deduction of statutory credits from minimum sentences as is. During the relevant time period, Nrs. 213.120 stated, "Any credits earned reduce his sentence pursuant to chapter 209 of Nrs. While a prisoner serves minimum term of imprisonment may reduce only the maximum term of imprisonment imposed and must not reduce the minimum term of imprisonment. Only the maximum term of imprisonment imposed and must not reduce minimum term of imprisonment may reduce only the maximum term of imprisonment imposed and must not reduce the minimum term of imprisonment. This page appears to be in conflict with the general rule of Nrs. 209.44(5)(f)(B). These apply to parole eligibility statutes should be interpreted in a way that lets them compatible, not contradictory. NDoc is failing to deduct statutory Hardnetts minimum term because it's applying Nrs. 209.44(5)(g) in violation of the federal ex-facto clause see U.S. Const. Art. I, 10. Nrs. 209.44(6) exception refers to sentencing statutes, but rather than relying on netts sentencing statute, Nrs. 200.380 and Nrs. 193.195 NDoc is relying on erbiage in his judgement of conviction.

*Note - Nrs. 213.120 deals with provisions prisoners that are subject to the death penalty.

; Had the respondent provided properly awarded the petitioner
ts against his sentence pursuant to Nrs. 209.4465(7)(B), The respondent
w, would provided the petitioner his sentence reflect he is now
ng; 9 yrs to 27 yrs. See also Nrs. 209.4465(8)(d) and Nrs. 209.4465(9),
ishing non-Conference by the respondents. Also see respondents Exhibit
nded J.O.C., and exhibit 4 Offender legal orders, neither document exhibi
itioner received 58% off the 9 yrs to 27 yrs sanctions imposed by this
able Court. Nrs. 209.4465(8)(b).

Statement of fact

I (a)

Here, on the 22nd day of September, 2015, the petitioner
(Herein after Hardnett) was sentenced to: 9 yrs to 27 yrs on
categories A and B felonies and 0 days credit.

Conclusion

III

For the reason stated above, this court should grant Hardnett petitioner for writ of Habeas corpus to state a claim upon which relief can be granted.

Respectfully Submitted

Larry Hardnett J.R.

* 1146775 H.D.S.P

Indian Springs, nr 89078

P.O. Box - 650

Certificate of Service

I, here by certify, that, on the 22nd day of September, 2017, mailed a true copy of my petition for writ of Habeas Corpus to s. 34,770 (Time-computation to The following).

Steven D. Grierson

200 Lewis Ave. 3rd Fl.

Las Vegas, nr 89155

Adam Paul Laxalt

555 E. Washington Ave.

Las Vegas, Nevada

89101

Respectfully submitted

Larry Hardnett

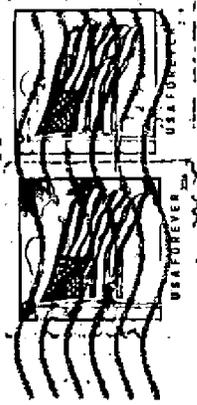
1146775

Witness

Larry Hardnett
1146779

High Desert State Prison
Indian Springs, NV 89070
P.O. Box - 650

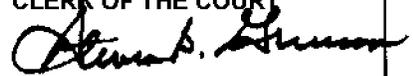
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Clerk of the Court
200 Lewis Ave. 3rd Floor
Las Vegas, Nevada 89155

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DAO

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

LARRY HARDNETT,

Petitioner,

vs.

BRIAN WILLIAMS, WARDEN, et al.,

Respondents.

Case No. A-16-748602-W

Dep't No. VII

DECISION AND ORDER

Now before the Court is Petitioner Larry Hardnett's Petition for Writ of Habeas Corpus. The matter came before the Court on August 15, 2017. No parties were present as the Court did not entertain oral arguments, and now rules based solely on the pleadings pursuant to NRS 34.770(2). The Court denies Mr. Hardnett's Petition for Writ of Habeas Corpus.

I. Factual and Procedural Background

Larry Hardnett is currently serving an aggregated sentence for Conspiracy to Commit Robbery, a category B felony; two counts of First Degree Kidnapping, both category A felonies; and two counts of Robbery with Use of a Deadly Weapon, both category B felonies. The conduct giving rise to the offenses took place in 2015. Mr. Hardnett is serving a maximum sentence of twenty-seven years in the Nevada Department of Corrections (NDOC) with minimum parole eligibility in nine years and eight months.

Mr. Hardnett filed his Petition for Writ of Habeas Corpus on December 23, 2016. Mr. Hardnett alleges the Nevada Department of Corrections and Warden Brian Williams have failed to properly apply good time credit to Mr. Hardnett's minimum parole eligibility. Mr. Hardnett argues he is entitled to a deduction of 20 days from his parole eligibility date for each month he has served pursuant to NRS 209.4465. Mr. Hardnett cites an unpublished Nevada Supreme Court decision:

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII

<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

NOV 09 2017

1 Vonseydewitz v. Legrand, No. 66159, 2015 WL 3936827 (Nev. June 24, 2015). The Attorney
2 General's Office filed a response on ~~March 17~~ ^{August 14}, 2017. The Attorney General's Office argues Mr.
3 Hardnett is not entitled to good time credit deductions from his parole eligibility date under NRS
4 209.4465.

5 II. Discussion

6 The Court first notes that Vonseydewitz does not apply in the instant case. Vonseydewitz is
7 an unpublished decision. Because it was issued before January 1, 2016, it cannot be cited for any
8 persuasive value. In addition, Vonseydewitz interpreted NRS 209.4465 as it existed prior to 2007,
9 before NRS 209.4465 was amended to include several key provisions. Mr. Hardnett's offense took
10 place in 2015, after NRS 209.4465 was amended. Therefore, the Court will be applying the current
11 format of NRS 209.4465.

12 Nevada Revised Statute 209.4465 governs the award of credits for crimes committed on or
13 after July 17, 1997. An inmate that meets certain qualifications "must be allowed. . . a deduction of
14 20 days from his or her sentence for each month the offender serves." NRS 209.4465(1). These
15 credits "[a]pply to eligibility for parole" unless "otherwise provided in subsections 8 and 9." NRS
16 209.4465(7). Under subsection 8, the credits apply to eligibility for parole for:

17 an offender who has not been convicted of:

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

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

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

23 (d) A category A or B felony.

24 NRS 209.4465(8).

25 The Court finds Mr. Hardnett is not entitled to good time credit deductions from his parole
26 eligibility date under NRS 209.4465. Mr. Hardnett is serving a sentence based on a category A and
27 B felony. NRS 209.4465(8) specifically exempts these types of offenses from NRS 209.4465(1)'s
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award for good time credit deductions from an inmate's parole eligibility date. Furthermore, Mr. Hardnett's current sentence is for a category A and B felonies committed in 2015, after the effective date of the 2007 amendment of NRS 209.4465, NRS 209. 4465(7) does not apply.

III. Conclusion

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

DATED this day of October 3, 2017.



LINDA MARIE BELL
DISTRICT COURT JUDGE

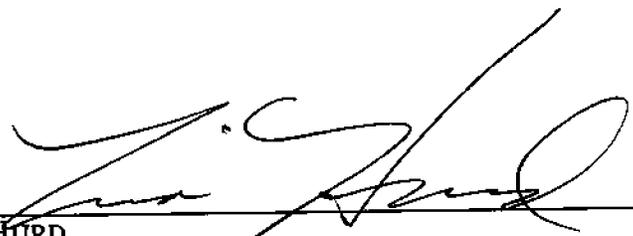
LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII

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
Larry Hardnett c/o High Desert State Prison	Petitioner
Allison Herr, Esq. Deputy Attorney General	Counsel for Respondent

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII



TINA HURD
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 A748602 DOES NOT contain the social security number of any person.

/s/ Linda Marie Bell Date 10/3/2017
District Court Judge



1 NEOJ

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

4 LARRY HARDNETT,

5
6 Petitioner,

Case No: A-16-748602-W

Dept. No: VII

7 vs.

8 BRIAN WILLIAMS WARDEN,

9 Respondent,

NOTICE OF ENTRY OF ORDER

10
11 **PLEASE TAKE NOTICE** that on November 9, 2017, the court entered a decision or order in this
12 matter, a 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 November 15, 2017.

16 STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

17
18
19 CERTIFICATE OF E-SERVICE / MAILING

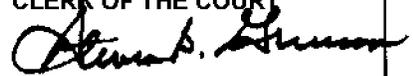
20 I hereby certify that on this 15 day of November 2017, I served a copy of this Notice of Entry on the
21 following:

22 By e-mail:
Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

23
24 The United States mail addressed as follows:
Larry Hardnett # 1146775
25 P.O. Box 650
Indian Springs, NV 89070

26
27 */s/ Amanda Hampton*

Amanda Hampton, Deputy Clerk



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DAO

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

LARRY HARDNETT,

Petitioner,

vs.

BRIAN WILLIAMS, WARDEN, et al.,

Respondents.

Case No. A-16-748602-W

Dep't No. VII

DECISION AND ORDER

Now before the Court is Petitioner Larry Hardnett's Petition for Writ of Habeas Corpus. The matter came before the Court on August 15, 2017. No parties were present as the Court did not entertain oral arguments, and now rules based solely on the pleadings pursuant to NRS 34.770(2). The Court denies Mr. Hardnett's Petition for Writ of Habeas Corpus.

I. Factual and Procedural Background

Larry Hardnett is currently serving an aggregated sentence for Conspiracy to Commit Robbery, a category B felony; two counts of First Degree Kidnapping, both category A felonies; and two counts of Robbery with Use of a Deadly Weapon, both category B felonies. The conduct giving rise to the offenses took place in 2015. Mr. Hardnett is serving a maximum sentence of twenty-seven years in the Nevada Department of Corrections (NDOC) with minimum parole eligibility in nine years and eight months.

Mr. Hardnett filed his Petition for Writ of Habeas Corpus on December 23, 2016. Mr. Hardnett alleges the Nevada Department of Corrections and Warden Brian Williams have failed to properly apply good time credit to Mr. Hardnett's minimum parole eligibility. Mr. Hardnett argues he is entitled to a deduction of 20 days from his parole eligibility date for each month he has served pursuant to NRS 209.4465. Mr. Hardnett cites an unpublished Nevada Supreme Court decision:

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII

<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

NOV 09 2017

1 Vonseydewitz v. Legrand, No. 66159, 2015 WL 3936827 (Nev. June 24, 2015). The Attorney
2 General's Office filed a response on ~~March 17~~ ^{August 14}, 2017. The Attorney General's Office argues Mr.
3 Hardnett is not entitled to good time credit deductions from his parole eligibility date under NRS
4 209.4465.

5 II. Discussion

6 The Court first notes that Vonseydewitz does not apply in the instant case. Vonseydewitz is
7 an unpublished decision. Because it was issued before January 1, 2016, it cannot be cited for any
8 persuasive value. In addition, Vonseydewitz interpreted NRS 209.4465 as it existed prior to 2007,
9 before NRS 209.4465 was amended to include several key provisions. Mr. Hardnett's offense took
10 place in 2015, after NRS 209.4465 was amended. Therefore, the Court will be applying the current
11 format of NRS 209.4465.

12 Nevada Revised Statute 209.4465 governs the award of credits for crimes committed on or
13 after July 17, 1997. An inmate that meets certain qualifications "must be allowed. . . a deduction of
14 20 days from his or her sentence for each month the offender serves." NRS 209.4465(1). These
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17 an offender who has not been convicted of:

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

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

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

23 (d) A category A or B felony.

24 NRS 209.4465(8).

25 The Court finds Mr. Hardnett is not entitled to good time credit deductions from his parole
26 eligibility date under NRS 209.4465. Mr. Hardnett is serving a sentence based on a category A and
27 B felony. NRS 209.4465(8) specifically exempts these types of offenses from NRS 209.4465(1)'s
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award for good time credit deductions from an inmate's parole eligibility date. Furthermore, Mr. Hardnett's current sentence is for a category A and B felonies committed in 2015, after the effective date of the 2007 amendment of NRS 209.4465, NRS 209. 4465(7) does not apply.

III. Conclusion

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

DATED this day of October 3, 2017.



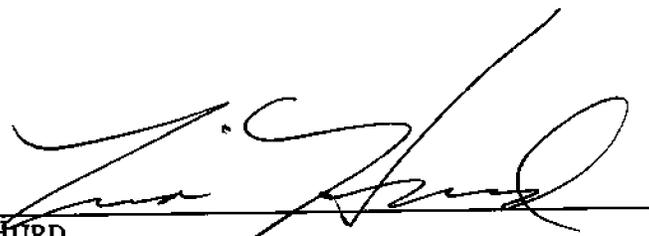
LINDA MARIE BELL
DISTRICT COURT JUDGE

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII

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
Larry Hardnett c/o High Desert State Prison	Petitioner
Allison Herr, Esq. Deputy Attorney General	Counsel for Respondent



TINA HURD
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 A748602 DOES NOT contain the social security number of any person.

/s/ Linda Marie Bell Date 10/3/2017
District Court Judge

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII

Steven D. Grierson

1 Larry Hardnett # 1146775
2 P.O. Box 450
3 Indian Springs, Nevada
4 89070

5 Petitioner - In Pro Se

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

10 Larry Hardnett;
11 Petitioner/ Appellant,
12 vs.
13 Brian Williams, Warden, et al.
14 Respondent/ Appellee.

Case No. A-16-748602-W
Dpt. No. III

16 NOTICE OF APPEAL

18 COMES NOW, Larry Hardnett, the Appellant, Pro Se hereby
19 Appeal the court's Decision and Order, where the court misconstrued
20 the Appellant's habeas petition to deny relief.

21 This Appeal is made and based upon the entitlements afforded
22 within the provisions set forth in NRS 209.446(5)(b), (8)(d), (9)(a) and the
23 Exposito Facto Cl. of the United States Constitution.

24 Dated: 12.12.17

Larry Hardnett 1146775
Appellant - Larry Hardnett

RECEIVED
DEC 21 2017
CLERK OF THE COURT

NOTE: Hardnett was entitled to 58% off the "flat time" employed
by the sentencing court.

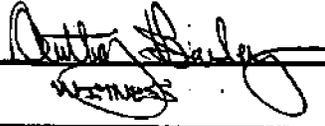
CERTIFICATE OF SERVICE

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I, hereby certify, that, on the 12th day of December, 2017,
I mailed my NOTICE OF APPEAL, to the following:

Nevada Supreme Court
201 S. Carson St. Suite 201
Carson City, Nevada 89401

Steven D. Carson
200 Lewis Ave. 3rd Fl.
Las Vegas, Nevada
89155


Steven D. Carson

LARRY HADWORTH # 1144773
P.O. Box 650
Indian Springs, Nevada
89070
H.D.S.P

STEVEN D. GILBERTSON
200 Lewis Ave. 3rd Fl.
Las Vegas, Nevada 89155

89101-630000



LEGAL MAIL
CONFIDENTIAL

INDIAN SPRINGS
NEVADA
89070



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

7

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LARRY HARDNETT,

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Plaintiff(s),

11

vs.

12

BRIAN WILLIAMS, WARDEN,

13

Defendant(s),

14

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CASE APPEAL STATEMENT

18

1. Appellant(s): Larry Hardnett

19

2. Judge: Linda Marie Bell

20

3. Appellant(s): Larry Hardnett

21

Counsel:

22

Larry Hardnett #1146775
P.O. Box 650
Indian Springs, NV 89070

23

24

25

4. Respondent (s): Brian Williams, Warden

26

Counsel:

27

Adam Paul Laxalt, Attorney General
555 E. Washington Ave., Ste. 3900
Las Vegas, NV 89101

28

- 1 5. Appellant(s)'s Attorney Licensed in Nevada: N/A
2 Permission Granted: N/A
3 Respondent(s)'s Attorney Licensed in Nevada: Yes
4 Permission Granted: N/A
5 6. Appellant Represented by Appointed Counsel In District Court: No
6 7. Appellant Represented by Appointed Counsel On Appeal: N/A
7 8. Appellant Granted Leave to Proceed in Forma Pauperis**: N/A
8 **Expires 1 year from date filed
9 Appellant Filed Application to Proceed in Forma Pauperis: No
10 Date Application(s) filed: N/A
11 9. Date Commenced in District Court: December 23, 2016
12 10. Brief Description of the Nature of the Action: Civil Writ
13 Type of Judgment or Order Being Appealed: Civil Writ of Habeas Corpus
14 11. Previous Appeal: No
15 Supreme Court Docket Number(s): N/A
16 12. Child Custody or Visitation: N/A
17 13. Possibility of Settlement: Unknown

18 Dated This 27 day of December 2017.

19 Steven D. Grierson, Clerk of the Court

20 /s/ Heather Ungermann

21 Heather Ungermann, Deputy Clerk
22 200 Lewis Ave
23 PO Box 551601
24 Las Vegas, Nevada 89155-1601
25 (702) 671-0512

26 cc: Larry Hardnett
27
28

IN THE SUPREME COURT OF THE STATE OF NEVADA

LARRY HARDNETT,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN,
Respondent.

Supreme Court No. 74799
District Court Case No. A748602

FILED

MAY 21 2018

CLERK'S CERTIFICATE

Elizabeth A. Brown
CLERK OF COURT

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

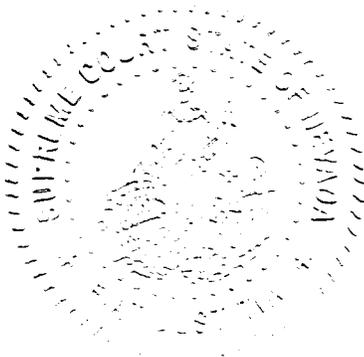
“ORDER this appeal DISMISSED.”

Judgment, as quoted above, entered this 16th day of April, 2018.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court at my Office in Carson City, Nevada this May 11, 2018.

Elizabeth A. Brown, Supreme Court Clerk

By: Amanda Ingersoll
Chief Deputy Clerk



A-16-748602-W
CCJD
NV Supreme Court Clerks Certificate/Judge
4747658



IN THE SUPREME COURT OF THE STATE OF NEVADA

LARRY HARDNETT,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN,
Respondent.

No. 74799

FILED

APR 16 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge.

Our initial review of this appeal indicated that the notice of appeal may have been untimely filed. Notice of entry of the district court's order denying appellant's postconviction petition for a writ of habeas corpus was served by mail on November 15, 2017. Thus, the notice of appeal was required to be filed by December 18, 2017. *See* NRS 34.575(1); NRAP 26(c). Appellant's notice of appeal was not filed in the district court until December 21, 2017, three days beyond the appeal period. Under NRAP 4(d) the notice of appeal is deemed timely "if it is delivered to a prison official for mailing on or before the last day for filing." When the prison has a notice of appeal log or another system designed for legal mail, the prisoner must use the logs to receive the benefit of this rule. Because appellant signed his notice of appeal on December 12, 2017, this court directed the attorney general to obtain and transmit a copy of the notice of appeal log. If appellant used any other log maintained by the prison during the relevant time period, the attorney general was to inform this court of that fact and provide a copy of the log used by appellant.

The attorney general has now submitted a response indicating that the prison where appellant is incarcerated maintains a notice of appeal log, but there is no evidence that appellant utilized the log. The attorney general does not indicate that appellant used any other log. Attached to the response is a copy of the notice of appeal log from the relevant time period. The notice of appeal log does not contain any entries from appellant.

Because appellant's notice of appeal was untimely filed and there is no indication that it was delivered to prison officials on or before the last day for filing, we conclude that we lack jurisdiction, see *Lozada v. State*, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994), and we

ORDER this appeal DISMISSED.

Cherry, J.
Cherry

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

cc: Hon. Linda Marie Bell, District Judge
Larry Hardnett
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk

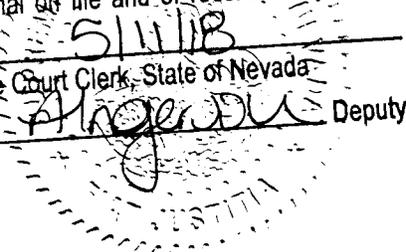


CERTIFIED COPY

This document is a full, true and correct copy of the original on file and of record in my office.

DATE: 5/11/18
Supreme Court Clerk, State of Nevada

By Angela Deputy



IN THE SUPREME COURT OF THE STATE OF NEVADA

LARRY HARDNETT,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN,
Respondent.

Supreme Court No. 74799
District Court Case No. A748602

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.

DATE: May 11, 2018

Elizabeth A. Brown, Clerk of Court

By: Amanda Ingersoll
Chief Deputy Clerk

cc (without enclosures):

Hon. Linda Marie Bell, District Judge
Larry Hardnett
Attorney General/Las Vegas
Attorney General/Carson City

RECEIPT FOR REMITTITUR

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on MAY 21 2018.

HEATHER UNGERMANN
Deputy District Court Clerk

**RECEIVED
APPEALS
MAY 18 2018
CLERK OF THE COURT**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

August 15, 2017

A-16-748602-W Larry Hardnett, Plaintiff(s)
vs.
Brian Williams Warden, Defendant(s)

**August 15, 2017 9:00 AM Petition for Writ of Habeas
Corpus**

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

COURT CLERK: Sylvia Perry

RECORDER: Renee Vincent

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Petition for Writ of Habeas Corpus

No parties present

Court advised no response was received by the Attorney General's office. Plaintiff was convicted of categories A and B felonies and is not entitled to credits off if his minimum sentence pursuant to NRS 209.4465(8). COURT ORDERED, petition DENIED.

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Court of Appeals order dated April 11, 2022, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises one volume with pages numbered 1 through 62.

LARRY HARDNETT,

Plaintiff(s),

vs.

BRIAN WILLIAMS, WARDEN,

Defendant(s),

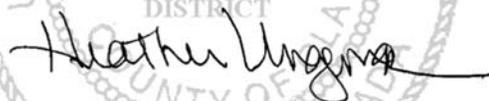
Case No: A-16-748602-W
*Related Case A-21-834858-W &
A-21-835317-W*

Dept. No: VII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 12 day of April 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

