

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LARRY HARDNETT,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN; AND
WILLIAM HUTCHINGS, WARDEN,
Respondents.

No. 83460-COA

FILED

MAY 05 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *E. A. Brown*
DEPUTY CLERK

LARRY HARDNETT,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN; AND
WILLIAM HUTCHINGS, WARDEN,
Respondents.

No. 83461-COA

ORDER OF AFFIRMANCE

Larry Hardnett appeals from orders of the district court denying postconviction petitions for a writ of habeas corpus filed on May 19, 2021, in district court case number A-21-834858-W (Docket No. 83460) and on May 27, 2021, in district court case number A-21-835317-W (Docket No. 83461). These cases were consolidated on appeal. See NRAP 3(b). Eighth Judicial District Court, Clark County; Erika D. Ballou, Judge.

Docket No. 83460

Hardnett contended that he was entitled to the application of credits to his minimum sentence pursuant to NRS 209.4465. Hardnett's sentences were the result of convictions for robbery with use of a deadly weapon and battery with use of a deadly weapon committed in 2015. Because Hardnett's sentences were for category B felonies, see NRS

193.165(1); NRS 200.380(2); NRS 200.481(2)(e)(1), committed after the effective date of NRS 209.4465(8), *see* 2007 Nev. Stat., ch. 525, § 22, at 3196, Hardnett was not entitled to the application of statutory credits to his minimum term. *See* NRS 209.4465(8)(d). Therefore, we conclude the district court did not err by denying this claim.

Hardnett also claimed the application of NRS 209.4465(8) violates the Ex Post Facto Clause. Because NRS 209.4465(8) was enacted before Hardnett committed his crimes, its application does not violate the Ex Post Facto Clause. *See Weaver v. Graham*, 450 U.S. 24, 29 (1981) (providing that a requirement for an Ex Post Facto Clause violation is that the statute applies to events occurring before it was enacted). Therefore, we conclude the district court did not err by denying this claim.

Docket No. 83461

Hardnett contended that he was entitled to the application of credits to his minimum sentences pursuant to NRS 209.4465 and that the application of NRS 209.4465(8) violates the Ex Post Facto Clause. Hardnett's petition was successive as he previously filed a postconviction petition for a writ of habeas corpus that was decided on the merits, and it constituted an abuse of the writ insofar as he raised claims new and different from those raised in his previous petition.¹ *See* NRS 34.810(2). Thus, Hardnett's petition was procedurally barred absent a demonstration of good cause and actual prejudice. *See* NRS 34.810(3). Hardnett did not

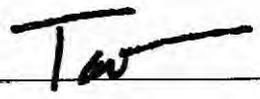
¹Hardnett filed his prior petition on December 23, 2016, and the district court decided it on the merits. Hardnett filed an untimely appeal from the denial of that petition, and the Nevada Supreme Court dismissed Hardnett's appeal for lack of jurisdiction. *See Hardnett v. Williams*, No. 74799, 2018 WL 1871081 (Nev. Apr. 16, 2018) (Order Dismissing Appeal).

allege he had good cause to overcome the procedural bars. Therefore, we conclude the district court did not err by denying the petition.

For the foregoing reasons, we

ORDER the judgments of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Erika D. Ballou, District Judge
Larry Hardnett
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk