

IN THE SUPREME COURT OF THE STATE OF NEVADA

SCOTT ANTHONY KANVICK,  
Appellant,  
vs.

THE STATE OF NEVADA BOARD OF  
PAROLE COMMISSIONERS; CONNIE  
BISBEE; DORLA SALLING; AND  
MARY VIETH,  
Respondents.

No. 51401

**FILED**

OCT 01 2008

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order dismissing a civil rights action.<sup>1</sup> First Judicial District Court, Carson City; William A. Maddox, Judge.

On May 31, 2007, appellant Scott Kanvick filed an amended complaint in the district court asserting that respondent State of Nevada Board of Parole Commissioners (Parole Board) violated the open meeting law, NRS Chapter 241, in connection with his parole hearing. Kanvick's amended complaint also asserted claims against respondent parole commissioners Connie Bisbee, Dorla Salling, and Mary Vieth. The Parole Board subsequently filed a motion to dismiss, which the district court granted in an order entered on March 2008. Kanvick appeals.

Kanvick's open meeting law claim

In support of his claim that his parole hearing violated Nevada's Open Meeting Law, Kanvick argues that Witherow v. State, Board of Parole Commissioners<sup>2</sup> does not control the resolution of his

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<sup>1</sup>We direct the clerk of the court to amend the caption in this matter as provided in this order.

<sup>2</sup>123 Nev. \_\_\_\_, 167 P.3d 408 (2007).

open meeting law claim because the Parole Board allegedly held both his filing of grievances and the decision to appeal his conviction against him in denying parole. In Witherow, this court concluded that a parole board's hearings are quasi-judicial proceedings and are not subject to the open meeting law.<sup>3</sup> Having considered Kanvick's arguments regarding the asserted open meeting law violation, we conclude that Witherow is controlling on this point and that the district court acted correctly in dismissing this portion of Kanvick's amended complaint.

Kanvick's claims against the individual parole commissioners

Kanvick's amended complaint contained separate claims against parole commissioners Connie Bisbee, Dorla Salling, and Mary Vieth. Specifically, against Bisbee, "in her individual capacity," for allegedly punishing Kanvick in retaliation for filing grievances; against Salling "in her individual capacity" for "continual wrongdoings and allowing all commissioners to act as a lawless entity"; and against Vieth "in her individual capacity" for denying Kanvick due process in failing to accurately maintain Kanvick's Parole Board report and for preventing his family from testifying at his parole hearing.

NRS 41.031(1) waives the State's sovereign immunity "except as otherwise provided . . . [in] any statute which expressly provides for governmental immunity." NRS 213.10705 indicates that the State has not waived immunity in cases involving the Parole Board. Specifically, NRS 213.10705 provides that, in establishing standards for parole and probation, the legislature did not intend to "establish a basis for any cause of action against the State, its political subdivisions, agencies, boards,

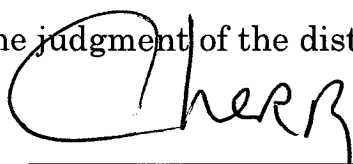
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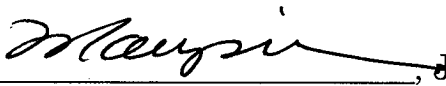
<sup>3</sup>Id. at \_\_\_\_, 167 P.3d at 412.


commissions, departments, officers or employees.” This statute thus expressly provides the parole commissioners immunity from suit. Although the district court did not dismiss Kanvick’s claims against the parole commissioners on this basis, because we determine that the parole commissioners are immune from suit, we nonetheless conclude that the district court properly dismissed Kanvick’s claims against the parole commissioners.<sup>4</sup> To the extent that Kanvick implies that the claims should survive regardless of the immunity of the parole commissioners, this court has held that the applicable Nevada parole statutes “[do] not create a constitutionally cognizable liberty interest sufficient to invoke due process.”<sup>5</sup>

Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>6</sup>

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Saitta

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<sup>4</sup>See Sengel v. IGT, 116 Nev. 565, 570, 2 P.3d 258, 261 (2000) (explaining that we will affirm the district court’s decision if it reaches the right result, even if for the wrong reasons).

<sup>5</sup>Severance v. Armstrong, 96 Nev. 836, 839, 620 P.2d 369, 370 (1980).

<sup>6</sup>Having reviewed Kanvick’s remaining arguments, we conclude that they are without merit.

cc: Hon. William A. Maddox, District Judge  
Scott Anthony Kanvick  
Connie Bisbee  
Dorla Salling  
Mary Vieth  
Attorney General Catherine Cortez Masto/Carson City  
Carson City Clerk