

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROBERT WADE MORSE,
Appellant,
vs.
ISIDRO BACA, WARDEN,
Respondent.

No. 72354

FILED

SEP 13 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Robert Wade Morse appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus.¹ First Judicial District Court, Carson City; James E. Wilson, Judge.

Morse argues the district court erred in denying his August 23, 2016, petition. In his petition, Morse first claimed the Nevada Department of Corrections erroneously failed to award him 20 good-time credits per month. The district court concluded Morse was not entitled to relief because he committed his crimes in March of 1997, and therefore, NRS 209.446 governs application of credits toward Morse's sentence.² Pursuant to NRS

¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

²Morse was convicted of murder, burglary, and coercion with the use of physical force or immediate threat of physical force. The record demonstrates Morse has expired the terms for his burglary and coercion convictions. The expiration of Morse's terms for the burglary and coercion

209.446(1), Morse is allowed ten good-time credits per month. *See* 1993 Nev. Stat., ch. 83, § 3, at 136 (former version of NRS 209.446). Accordingly, we conclude the district court properly denied this claim.

Second, Morse argued another inmate earns 20 days of credit per month and the disparate treatment of that inmate as compared to him violated his equal protection rights. "The Equal Protection Clause of the Fourteenth Amendment mandates that all persons similarly situated receive like treatment under the law." *Gaines v. State*, 116 Nev. 359, 371, 998 P.2d 166, 173 (2000). When a classification does not affect fundamental rights, the "legislation at issue will be upheld provided the challenged classification is rationally related to a legitimate governmental interest." *Id.*

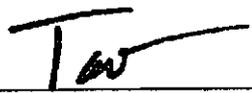
Here, Morse did not demonstrate he and the other inmate were similarly situated given differing offense dates and different statutes governing application of credits during the different offense dates. Further, Morse did not demonstrate that this issue involved the type of fundamental rights requiring strict scrutiny review. *See id.*; *see also Glauner v. Miller*, 184 F.3d 1053, 1054 (9th Cir. 1999) (recognizing prisoners are not a suspect class and applying rational basis test). In addition, Morse did not demonstrate there was no rational basis for applying credits in a different

convictions renders any challenge to the computation of time served for those terms moot. *See Johnson v. Director, Nevada Dep't Prisons*, 105 Nev. 314, 316 774 P.2d 1047, 1049 (1989) (stating that expiration of a defendant's sentence rendered any question concerning computation of the sentence moot).

manner based upon offenses and offense date. Therefore, we conclude the district court did not err in denying the petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. James E. Wilson, District Judge
Robert Wade Morse
Attorney General/Carson City
Carson City Clerk