

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHARLES KEOHOKALOLE,
Appellant,
vs.
JO GENTRY, WARDEN; AND STATE
OF NEVADA PAROLE BOARD,
Respondents.

No. 73646

FILED

JUN 13 2018

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

ORDER OF AFFIRMANCE

Charles Keohokalole appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on November 15, 2016.¹ Eighth Judicial District Court, Clark County; Kathy A. Hardcastle, Senior Judge.

Keohokalole claimed the Nevada Board of Parole Commissioners violated his rights under the Ex Post Facto Clause by ordering his good time credits forfeited after his parole was revoked. He argued that NRS 213.1215, NRS 213.1518, NRS 213.1519, and their amendments were enacted after he committed his crimes. And he asserted their application to his parole revocation had the effect of increasing his sentence by an additional two years and ten months. The record demonstrates the parole board ordered Keohokalole's good time credits forfeited pursuant to NRS 213.1519.

The constitutional prohibition on ex post facto legislation "is aimed at laws that 'retroactively alter the definition of crimes or increase


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

the punishment for criminal acts.” *Miller v. Warden*, 112 Nev. 930, 933, 921 P.2d 882, 883 (1996) (quoting *Collins v. Youngblood*, 497 U.S. 37, 43 (1990)). Statutory changes are procedural, and cannot be ex post facto laws, if they do not make previously innocent acts criminal, aggravate the crime previously committed, provide greater punishment, or change the proof necessary to convict. *Dobbert v. Florida*, 432 U.S. 282, 293 (1977).

At the time Keohokalole elected to violate the conditions of his parole, NRS 213.1519(1) provided, “a parolee whose parole is revoked by decision of the Board for a violation of any rule or regulation governing his or her conduct . . . [f]orfeits all credits for good behavior previously earned to reduce his or her sentence” and “[m]ust serve such part of the unexpired maximum term . . . of his or her original sentence as may be determined by the Board.”² Because NRS 213.1519(1) merely sets forth the penalty Keohokalole risked by violating the conditions of his parole, and it does not retroactively increase his original sentence, we conclude it is not an ex post facto law and Keohokalole is not entitled to relief. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

²We note this statutory language has not significantly changed since the statute’s enactment in 1975, some 32 years before Keohokalole committed the crimes in this case. See 1975 Nev. Stat., ch. 163, § 8, at 197.

cc: Chief Judge, Eighth Judicial District Court
Hon. Kathy A. Hardcastle, Senior Judge
Charles Keohokalole
Attorney General/Carson City
Eighth District Court Clerk