

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TYRONE THOMAS HOWARD NALL,
Appellant,
vs.
ROBERT LEGRAND, WARDEN,
LOVELOCK CORRECTIONAL
CENTER,
Respondent.

No. 76020-COA

FILED

FEB 12 2019

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

ORDER OF AFFIRMANCE

Tyrone Thomas Howard Nall appeals from an order of the district court denying a supplemental postconviction petition for a writ of habeas corpus filed on June 15, 2016.¹ Eleventh Judicial District Court, Pershing County; Jim C. Shirley, Judge.

Nall argues the district court erred by denying his claim the Nevada Department of Corrections (NDOC) erred by improperly declining to apply his statutory credits toward sentences Nall has already expired or been paroled from. He argues *Garlotte v. Fordice*, 515 U.S. 39 (1995) overruled *Johnson v. Dir., Nev. Dep't of Prisons*, 105 Nev. 314, 774 P.2d

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

1047 (1989), and therefore, the district court erred by relying on *Johnson* to deny him relief on the sentences he has been paroled from.

Nall fails to demonstrate the district court erred. *Garlotte* did not overrule the holding in *Johnson* that when a prisoner has “expired his sentence, any question as to the method of computing those sentences was rendered moot.” *Johnson*, 105 Nev. at 316, 774 P.2d at 1049. Instead, *Garlotte* discusses what constitutes custody for habeas corpus petitioners when they are serving consecutive sentences and want to challenge their conviction. It does not discuss credits a prisoner has earned pursuant to statute and the right to have those credits apply to expired or paroled from sentences.

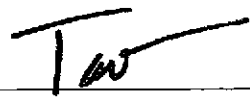
We conclude the district court properly denied Nall’s claim that his credits should apply to the minimum parole eligibility of sentences he has expired or been paroled from.² The only relief available in this situation would be a parole hearing, and Nall has either expired or been paroled from his previous sentences. No statutory authority or case law permits a retroactive grant of parole. See *Niergarth v. Warden*, 105 Nev. 26, 29, 768

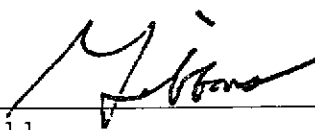
²The district court found NDOC is correctly applying Nall’s statutory credits toward his minimum parole eligibility for his current sentence, see NRS 209.446(6)(b), and Nall does not challenge that finding on appeal.

P.2d 882, 884 (1989). Accordingly, we conclude the district court did not err by denying Nall's petition, and we

ORDER the judgment of the district court AFFIRMED.³


_____, A.C.J.
Douglas


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Jim C. Shirley, District Judge
Tyrone Thomas Howard Nall
Attorney General/Carson City
Pershing County Clerk

³We deny Nall's motion for the appointment of appellate counsel. Further, we have reviewed all documents Nall has filed in this matter, and we conclude no relief based upon those submissions is warranted. To the extent Nall has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we decline to consider them in the first instance.