

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOEL DANIEL FOX,  
Appellant,  
vs.  
RENEE BAKER, WARDEN,  
Respondent.

No. 76224-COA

**FILED**

JUL 17 2019

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

**ORDER OF AFFIRMANCE**

Joel Daniel Fox appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on May 1, 2018, and “amended” petition filed on May 29, 2018.<sup>1</sup> Eleventh Judicial District Court, Pershing County; Jim C. Shirley, Judge.

Fox claimed the Nevada Department of Corrections was failing to apply statutory credits to his parole eligibility pursuant to NRS 209.4465(7)(b). Fox was sentenced to terms of years for crimes he committed in 1995. Because the record before this court suggested Fox was no longer incarcerated, this court ordered a response from the State as to his custody status. The State responded and provided documentation showing Fox was paroled from his final sentence in January 2019. Since a parole hearing would be the only relief available and no statutory authority or caselaw permits a retroactive grant of parole, *see Niergarth v. Warden*, 105 Nev. 26, 29, 768 P.2d 882, 884 (1989), Fox’s claim is moot. *See Johnson*

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


*v. Dir., Nev. Dep't of Prisons*, 105 Nev. 314, 316, 774 P.2d 1047, 1049 (1989).

Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Jim C. Shirley, District Judge  
Joel Daniel Fox  
Attorney General/Carson City  
Pershing County Clerk