

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GARY WAYNE WALTERS,
Appellant,
vs.
BRIAN E. WILLIAMS, SR., WARDEN;
THE STATE OF NEVADA
DEPARTMENT OF CORRECTIONS;
AND THE STATE OF NEVADA,
Respondents.

No. 70992

FILED

APR 19 2017

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

ORDER OF AFFIRMANCE

Appellant Gary Wayne Walters appeals from a district court order denying his postconviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge.

Walters claims the district court erred by denying his habeas petition because the Nevada Department of Corrections failed to properly apply good-time credits for offenses he committed between 2002 and 2005 as required by NRS 209.4465(2); the reasoning in an unpublished Nevada Supreme Court decision applies to his case; and the statutory right to good-time credits cannot be taken away without due process of law.

Even assuming Walters should have received credit towards his minimum sentence under the version of NRS 209.4465 that was in

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

The district court consolidated Walters' motion for emergency intervention, filed on April 21, 2016, and his notification to the court, filed on April 22, 2016, and construed them as a postconviction petition for a writ of habeas corpus.

effect during the time he committed his crimes, his only remedy would be the application of the credit towards a parole-eligibility determination. The district court found that Walters was already scheduled to appear before the Parole Board and, therefore, his habeas claim was moot. In his opening brief on appeal, Walters acknowledges he has had a parole hearing and he has been granted parole. Accordingly, we conclude the district court did not err by denying Walters' petition as moot. See NRS 213.10705; *Niergarth v. Warden*, 105 Nev. 26, 28-29, 768 P.2d 882, 883-84 (1989) (holding no statutory authority or case law permits a retroactive grant of parole). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Linda Marie Bell, District Judge
Gary Wayne Walters
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk