

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ARTHUR SMITH,
Appellant,
vs.
RENEE BAKER, WARDEN,
Respondent.

No. 77561-COA

FILED

SEP 30 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

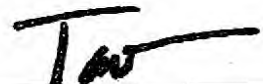
ORDER OF AFFIRMANCE

Arthur Smith appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on May 4, 2018. Eleventh Judicial District Court, Pershing County; Jim C. Shirley, Judge.

Smith claimed the Nevada Department of Corrections is failing to apply statutory credits to his parole eligibility pursuant to NRS 209.4465(7)(b). Smith was sentenced to consecutive terms of 10 to 25 years and 12 to 30 months in prison. He aggregated his sentences and had a parole hearing in 2016. 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), Smith's claim is moot. *See Johnson 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
Arthur Smith
Attorney General/Carson City
Pershing County Clerk