

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GRADY ONZO MULLINS,
Appellant,
vs.
RENEE BAKER, WARDEN,
Respondent.

No. 78264-COA

FILED

NOV 05 2019

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

ORDER OF AFFIRMANCE

Grady Onzo Mullins appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eleventh Judicial District Court, Pershing County; Jim C. Shirley, Judge.

In his May 16, 2018, petition, Mullins contended the Nevada Department of Corrections erred by improperly declining to apply his statutory credits from sentences he has already expired toward his remaining terms. In support of his claim, Mullins argues *Garlotte v. Fordice*, 515 U.S. 39 (1995) overruled *Johnson v. Dir., Nev. Dep't of Prisons*, 105 Nev. 314, 774 P.2d 1047 (1989), and therefore, the district court erred by relying on *Johnson* to deny him relief on the sentences he has been paroled from.

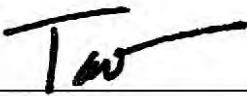
Mullins fails to demonstrate the district court erred. *Garlotte* did not overrule the holding in *Johnson* stating that when a prisoner has "expired his sentence, any question as to the method of computing those sentences was rendered moot." *Johnson*, 105 Nev. at 316, 774 P.2d at 1049. Instead, *Garlotte* discussed what constitutes custody for habeas corpus petitioners when they are serving consecutive sentences and want to challenge their conviction. 515 U.S. at 44-47. *Garlotte* did not discuss

credits a prisoner has earned pursuant to statute or the right to have those credits apply to expired or paroled-from sentences.

The district court found any challenge Mullins raised regarding the application of credits toward his expired sentence or the minimum parole eligibility of his current term was rendered moot by his 2018 parole hearing on his current sentence. *See Williams v. State Dep't of Corr.*, 133 Nev. 594, 600 n.7, 402 P.3d 1260, 1265 n.7 (2017) (“[N]o relief can be afforded where the offender has already expired the sentence or appeared before the parole board on the sentence.” (internal citation omitted)). The district court also found any challenge to the application of credits toward the parole eligibility dates for terms Mullins had not yet begun to serve was not yet ripe and, therefore, declined to consider such a challenge. *See Cote H. v. Eighth Judicial Dist. Court*, 124 Nev. 36, 38 n.1, 175 P.3d 906, 907 n.1 (2008) (“A case is ripe for review when the degree to which the harm alleged by the party seeking review is sufficiently concrete, rather than remote or hypothetical, and yields a justiciable controversy.” (internal punctuation and quotation marks omitted)). Based on the record before this court, we conclude the district court properly denied relief. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Jim C. Shirley, District Judge
Grady Onzo Mullins
Attorney General/Carson City
Pershing County Clerk