

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRIS ELLISON,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 37781

**FILED**

JAN 02 2002

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's petition for a writ of mandamus.

On December 13, 2000, appellant filed a proper person petition for a writ of mandamus in the district court. Appellant contended that the parole board impermissibly applied newly enacted parole guidelines to raise his crime severity level and increase the amount of time he must serve before being paroled, thereby violating the terms of his plea agreement, as well as the Double Jeopardy, Ex Post Facto, Due Process, and Equal Protection Clauses of the United States Constitution. On March 29, 2001, the district court denied appellant's petition as "wholly without merit." This appeal followed.

Based upon our review of the record on appeal, we conclude that the district court properly denied appellant's petition. The parole board's application of revised parole guidelines did not violate the terms of appellant's plea agreement, the Ex Post Facto Clause,<sup>1</sup> or any other constitutional provision. Parole is an act of grace; a prisoner has no constitutional right to parole.<sup>2</sup> The subject of parole is within the legislative authority.<sup>3</sup> NRS 213.10885(1) provides that the parole board shall adopt specific standards or guidelines to assist the board in

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<sup>1</sup>See generally Vermouth v. Corrothers, 827 F.2d 599 (9th Cir. 1987) (holding that federal parole guidelines were not laws for ex post facto purposes).

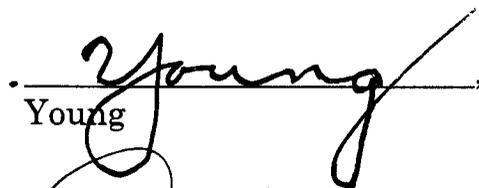
<sup>2</sup>See NRS 213. 10705; Niergarth v. Warden, 105 Nev. 26, 768 P.2d 882 (1989).

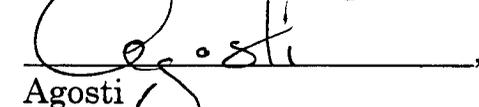
<sup>3</sup>See Pinana v. State, 76 Nev. 274, 283, 352 P.2d 824, 829 (1960).

determining whether to grant or deny parole. NRS 213.10885(5) further requires the parole board to conduct a comprehensive review of the standards every second year and adopt revised standards if any are determined to be ineffective. The decision to grant or deny parole lies within the discretion of the parole board.<sup>4</sup> Our review of the record on appeal indicates that the parole board applied the correct guidelines in determining appellant's eligibility for parole.<sup>5</sup> Thus, the district court properly denied appellant's petition.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.<sup>6</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Young

  
\_\_\_\_\_, J.  
Agosti

  
\_\_\_\_\_, J.  
Leavitt

cc: Hon. Steven R. Kosach, District Judge  
Attorney General/Carson City  
Washoe County District Attorney  
Chris Ellison  
Washoe County Clerk

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<sup>4</sup>See NRS 213.1099(2) (providing that the parole board shall consider the standards and various other factors in determining whether to deny or grant parole); NAC 213.560(1) (stating that the standards do not restrict the parole board's discretion to grant or deny parole).

<sup>5</sup>See NRS 213.10885(1), (5); NRS 213.1099(2); NAC 213.560(1).

<sup>6</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).