

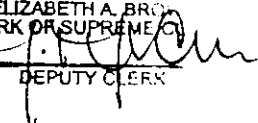
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GARY WALKER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 89039-COA

FILED

MAY 21 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Gary Walker appeals from a district court order denying a postconviction petition for a writ of habeas corpus challenging the computation of time served filed on December 14, 2023.¹ Eighth Judicial District Court, Clark County; Erika D. Ballou, Judge.

Walker argues the district court erred by denying his petition without conducting an evidentiary hearing. In his petition, Walker sought “recalculation” of the statutory credits applied to his sentence pursuant to S.B. 413. The district court denied the petition because S.B. 413 does not become effective for calculation purposes until July 1, 2025. Consistent with our opinion in *Smith*, we conclude the district court did not err by denying this claim without conducting an evidentiary hearing. *See Smith v. State*, 140 Nev., Adv. Op. 81, 561 P.3d 1079, 1081 (Ct. App. 2024).

¹Walker called his pleading “notice of motion—application and election” that choose benefits under legal instrument and doctrine Senate Bill #413.” Because Smith’s pleading sought a revised method for calculating statutory credits pursuant to Senate Bill (S.B.) 413, the district court properly construed it as a postconviction petition for a writ of habeas corpus challenging the computation of time served. *See Smith v. State*, 140 Nev., Adv. Op. 81, 561 P.3d 1079, 1081 (Ct. App. 2024).

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Walker also sought recalculation of his “stat-time, good-time, work-time, and SB 241 time.” It is unclear if Walker sought recalculation under S.B. 413 or if he was challenging the calculation of these credits pursuant to statutory provisions in effect at the time he filed his petition. To the extent Walker sought recalculation of these credits pursuant to statutory provisions in effect at the time he filed his petition, he neither alleged nor demonstrated that he had exhausted his administrative remedies before filing the petition. See NRS 34.724(1) (“Any person . . . who, after exhausting all available administrative remedies, claims that the time the person has served pursuant to the judgment of conviction has been improperly computed may file a petition . . . to challenge the computation of time that the person has served.”); see also NRS 34.724(2)(c). Therefore, we conclude the district court did not err by denying Walker’s petition without conducting an evidentiary hearing.² See NRS 34.810(2) (providing “[t]he court shall dismiss a petition that challenges the computation of time served . . . without prejudice if the court determines that the petitioner did not exhaust all available administrative remedies to resolve such a challenge as required by NRS 34.724”); *Hargrove v. State*, 100 Nev. 498, 503, 686 P.2d 222, 225 (1984) (providing that a petitioner is entitled to an evidentiary hearing if there are factual allegations not belied by the record that, if true, would entitle him to relief).

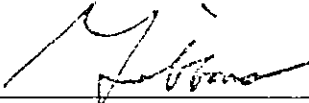
On appeal, Walker requests that, to the extent he misunderstood that S.B. 413 was not yet in effect for calculation purposes


²Nothing in this order should be construed as precluding Walker from filing a postconviction petition for a writ of habeas corpus challenging the computation of time served after all available administrative remedies have been exhausted.

and that he is not yet entitled to relief, this court grant him an extension of time and set a hearing after the above-mentioned effective date to recalculate his sentence. We decline to grant this requested relief as Walker has not shown that he is precluded from pursuing the relief he sought in his petition after S.B. 413 takes effect for calculation purposes. For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Erika D. Ballou, District Judge
Gary Walker
Attorney General/Carson City
Clark County District Attorney
Attorney General/Las Vegas
Eighth District Court Clerk