

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN WITHEROW,
Appellant,
vs.
WARDEN, LOVELOCK
CORRECTIONAL CENTER, CRAIG
FARWELL,
Respondent.

No. 43720

FILED

OCT 08 2004

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court dismissing appellant John Witherow's post-conviction petition for a writ of habeas corpus. Sixth Judicial District Court, Pershing County; John M. Iroz, Judge.

On April 2, 2004, Witherow filed a proper person post-conviction petition for a writ of habeas corpus in the district court, in which he challenged the application of good time credit to his sentence. On July 30, 2004, the district court dismissed Witherow's petition. This appeal followed.


In his petition, Witherow challenged the Nevada Department of Corrections' failure to deduct statutory good time credit from the maximum term of his sentence.¹ Witherow is serving a sentence of life with the possibility of parole, and contended that he expects to live until approximately November 1, 2014; he argued that his good time credit should therefore be deducted from this date. We conclude that the district


¹See NRS 209.443.


court did not err in denying Witherow relief on this claim. This court has previously held that the legislature did not intend good time credit to be applied to a life sentence, although it should be recorded in the event the sentence is later modified.² The record on appeal reveals that prison officials have continued to record Witherow's good time credit. Because Witherow is not entitled to have good time credit deducted from his life sentence, we affirm the order of the district court.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Witherow is not entitled to relief and that briefing and oral argument are unwarranted.³ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

cc: Hon. John M. Iroz, District Judge
John Witherow
Attorney General Brian Sandoval/Carson City
Pershing County Clerk

²See Hunt v. Warden, 111 Nev. 1284, 903 P.2d 826 (1995).

³See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).