

IN THE SUPREME COURT OF THE STATE OF NEVADA

CARL HENRY OLSEN, III,
Appellant,
vs.
NEVADA BOARD OF PAROLE
COMMISSIONERS,
Respondent.

No. 49531

FILED

SEP 07 2007

ANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *A. Alvarado*
DEPUTY CLERK

ORDER OF AFFIRMANCE

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

On May 10, 1990, the district court convicted appellant, pursuant to a jury verdict, of eight counts of sexual assault of a minor under fourteen years of age and sentenced appellant to serve eight consecutive life sentences in the Nevada State Prison with the possibility of parole. Appellant did not file a direct appeal.

On April 25, 2007, appellant filed a post-conviction petition for a writ of habeas corpus in the district court. On that same day, the district court dismissed his petition. This appeal followed.

The parole board granted appellant parole on his first life sentence on December 2, 2005. As a result, appellant was paroled to serve his second life sentence. In his petition, appellant claimed that he was inappropriately denied release on parole because he cannot serve multiple

consecutive life sentences while on parole.¹ Appellant also argued that because he obtained Psych Panel certification pursuant to NRS 213.1214 he must be released, even though he still has seven consecutive life sentences to serve pursuant to the judgment of conviction.

Appellant's contentions were patently without merit. A district court must sentence a defendant separately for each count upon which a defendant is convicted and may not aggregate the sentences for the purposes of parole.² Pursuant to NRS 176.035(1), when a defendant is convicted of multiple offenses, the district court has the discretion to determine whether sentences on multiple counts run consecutively or concurrently.³ Nevertheless, when a prisoner is sentenced to consecutive sentences the Parole Board may parole a prisoner "from a current term of imprisonment to a subsequent term of imprisonment."⁴

In this case, it is plain that appellant was appropriately released on parole to serve his next sentence instead of being released from prison. Contrary to appellant's suggestion otherwise, his release

¹To the extent appellant attacked the judgment of conviction or the legality of his sentence in his petition, these claims must be filed in the district where he was convicted and sentenced. See NRS 34.738(1).

²Powell v. State, 113 Nev. 258, 264, n.9, 934 P.2d 224, 228 (1997) (recognizing that a defendant must be sentenced to definite terms on each conviction); see also State, Dep't of Prisons v. Kimsey, 109 Nev. 519, 521, 853 P.2d 109, 110-11 (1993) (noting that the district court was not permitted to sentence a defendant convicted of multiple offenses to an aggregate sentence for the purpose of parole).

³See Warden v. Peters, 83 Nev. 298, 429 P.2d 549 (1967).

⁴NRS 176.035(5).

from prison on parole after serving only one of eight consecutive life sentences, is prohibited under Nevada's sentencing scheme.⁵ Thus, because the Parole Board acted within its authority when paroling appellant to serve his second consecutive life sentence,⁶ the district court did not err in denying appellant's petition.

Moreover, to the extent that appellant argued that this court's decision in Stockmeier v. Psychological Review Panel alters this result, he was mistaken.⁷ Stockmeier merely stands for the proposition that when a sex offender has multiple sentences for sexual crimes he need not receive certification from the Psych Panel before being institutionally paroled to his next sentence; instead, he may wait until he is paroled on his final sentence to seek such certification.⁸ Thus, according to Stockmeier appellant may have waited until he was seeking parole on his eighth life sentence before obtaining certification pursuant to NRS 213.1214. There

⁵See Kimsey, 109 Nev. at 521, 853 P.2d at 110-11.

⁶1977 Nev. Stat., Ch. 598, § 3, at 1626-2007 (NRS 200.366) provides that if a sexual assault is committed upon a child under 14 years of age, the district court shall sentence a defendant to a term of life with the possibility of parole, with parole eligibility beginning when a minimum of 10 years has been served. Here, appellant was paroled after serving 16 years of his first life sentence. He must now continue to serve the statutory minimum on each of his life sentences before being institutionally paroled on each sentence.

⁷Stockmeier v. Psychological Review Panel, 122 Nev. 534, 541, 135 P.3d 807, 811 (2006) (explaining that when a prisoner serving consecutive sentences is paroled "the prisoner is not released into society; he remains in prison and merely begins serving his next sentence").

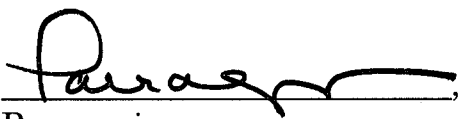
⁸Id. at 541-42, 135 P.3d at 812.

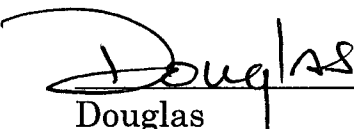
is simply no support for appellant's argument that because he received such certification at an earlier juncture his release is mandated. Therefore, we affirm the order of the district court.

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.⁹ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

cc: Hon. John M. Iroz, District Judge
Carl Henry Olsen III
Attorney General Catherine Cortez Masto/Carson City
Pershing County Clerk

⁹See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).