

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN BRADLEY HODGES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50482

FILED

APR 18 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus. First Judicial District Court, Carson City; James Todd Russell, Judge.

On June 18, 2002, appellant was convicted in the Second Judicial District Court as follows: (1) in district court case number CR01-0742, of one count of possession of stolen property, for which appellant was adjudicated a habitual criminal (Category B felony) and sentenced to a term of 5 to 20 years; (2) in district court case number CR02-1125, of one count of assault with a deadly weapon, for which appellant was sentenced to a term of 12 to 30 months to run concurrently with district court CR01-0742; and (3) in district court case number CR01-0743, of one count of possession of stolen property, for which appellant was sentenced to a term of 24 to 60 months to run concurrently with district court case number CR01-0742.

On July 27, 2007, appellant filed a proper person post-conviction petition for a writ of habeas corpus challenging the computation of time served. The State opposed the petition, and appellant filed a response. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to conduct an evidentiary

hearing. On October 16, 2007, the district court denied appellant's petition. This appeal followed.

In his petition, appellant claimed that amendments to NRS 209.4465, enacted in Assembly Bill 510, violated equal protection because those amendments treat offenders differently based on whether or not the offenders had already reached their minimum parole eligibility date before July 1, 2007. Appellant claimed that offenders who had reached their minimum parole eligibility date prior to July 1, 2007, were ineligible to receive the increased amount of statutory good time credits retroactively to July 1, 2000, and only received the increased amount of statutory good time credits beginning July 1, 2007.

The 2007 Nevada Legislature amended NRS 209.4465 to increase the amount of statutory good time credits earned by an offender, who had committed a crime on or after July 1, 1997, from a deduction of 10 days per month to a deduction of 20 days per months.¹ The Legislature further provided that for certain offenders these credits would be applied to eligibility for parole and must be deducted from the minimum term imposed until the offender becomes eligible for parole.² In determining the effect of the amendments, the Legislature provided that the amendment enacted in NRS 209.4465(8), the provision applying credits to the minimum term for certain offenders, applied retroactively to July 1, 2000, to reduce the minimum term of imprisonment of an offender described in NRS 209.4465(8), who was in the custody of the Nevada

¹2007 Nev. Stat., ch. 525, § 5, at 3176 (NRS 209.4465(1)).

²2007 Nev. Stat., ch. 525, § 5, at 3177 (NRS 209.4465(8)).

Department of Corrections on and before July 1, 2007.³ Notably, the provision allowing for the application of statutory good time credits to a minimum term of imprisonment does not apply to offenders convicted of a Category B felony.⁴ Thus, an offender convicted of a Category B felony is entitled to receive 20 days of statutory good time credits beginning July 1, 2007, and those credits must be deducted from the maximum term to be served and would apply to eligibility for parole unless the offender was sentenced pursuant to a statute specifying a minimum term.⁵

The district court denied the petition on the ground that the amendments to NRS 209.4465 did not differentiate between offenders who had reached their parole eligibility date and those who had not. The district court further determined that appellant failed to demonstrate that his equal protection rights were violated as he had failed to make a showing of different treatment for similarly situated offenders. Based upon our review of the record on appeal, we conclude that the district court did not err in denying the petition. The fundamental issue in this matter was not whether appellant had reached his parole eligibility date before July 1, 2007, but whether appellant was eligible to apply the increased amount of statutory good time credits to reduce his minimum term. Pursuant to NRS 209.4465(8), appellant was excluded from applying the increased amount of statutory good time credits to his

³2007 Nev. Stat., ch. 525, § 21, at 3196.

⁴NRS 209.4465(8)(d).

⁵NRS 209.4465(1), (7), (8); see also 2007 Nev. Stat., ch. 525, § 21, at 3196.


minimum term because he was convicted of a Category B felony.⁶ Because appellant was excluded from the application of statutory good time credits to his minimum term, the provision making the application of statutory good time credits to a minimum term retroactive to July 1, 2000, did not apply to appellant. Appellant failed to demonstrate that different treatment based upon his status as a Category B felon violated his equal protection rights.⁷ 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.⁸ Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 J.

Maupin

 J.

Cherry

 J.

Saitta

⁶See NRS 207.010(1)(a).

⁷See Armijo v. State, 111 Nev. 1303, 904 P.2d 1028 (1995); see also Plyler v. Doe, 457 U.S. 202 (1982).

⁸See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

cc: Hon. James Todd Russell, District Judge
Steven Bradley Hodges
Attorney General Catherine Cortez Masto/Carson City
Carson City Clerk