

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN BRADLEY HODGES,  
Appellant,  
vs.  
WARDEN, NORTHERN NEVADA  
CORRECTIONAL CENTER, JIM  
BENEDETTI,  
Respondent.

No. 50866

**FILED**

JUL 16 2008

TRACIE LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court dismissing 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. Appellant unsuccessfully challenged the calculation of

statutory good time credits earned pursuant to the 2007 amendments in a prior post-conviction petition for a writ of habeas corpus.<sup>1</sup>

On November 19, 2007, appellant filed a proper person post-conviction petition for a writ of habeas corpus challenging the computation of time served in the district court. The State filed a motion to dismiss the petition. On January 2, 2008, the district court dismissed the petition. This appeal followed.

Appellant claimed that his rights under the Fourteenth Amendment and his due process rights were violated by the Department of Corrections. Specifically, appellant claimed that the Department improperly applied statutory good time credits pursuant to the 2007 amendments to NRS 209.4465 and erroneously determined that he was not entitled to the retroactive application of 20 days of statutory good time credits from June 18, 2002 through 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 month.<sup>2</sup> 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.<sup>3</sup> In determining

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<sup>1</sup>Hodges v. State, Docket No. 50482 (Order of Affirmance, April 18, 2008).

<sup>2</sup>2007 Nev. Stat., ch. 525, § 5, at 3176 (NRS 209.4465(1)).

<sup>3</sup>2007 Nev. Stat., ch. 525, § 5, at 3177 (NRS 209.4465(8)).

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 Department of Corrections on and before July 1, 2007.<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup>

In denying the petition, the district court determined that the petition was successive in violation of NRS 34.810(2) as appellant had previously filed a post-conviction petition for a writ of habeas corpus challenging the calculation of statutory good time credits pursuant to the 2007 amendments to NRS 209.4465. Based upon our review of the record on appeal, we conclude that the district court did not err in dismissing the petition. Because appellant had previously challenged the retroactive effect and calculation of statutory good time credits pursuant to NRS

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<sup>4</sup>2007 Nev. Stat., ch. 525, § 21, at 3196.

<sup>5</sup>NRS 209.4465(8)(d).

<sup>6</sup>NRS 209.4465(1), (7), (8); see also 2007 Nev. Stat., ch. 525, § 21, at 3196.

209.4465, the November 19, 2007 petition was successive.<sup>7</sup> Appellant failed to provide any good cause for his failure to present the argument set forth in November 19, 2007 petition in the prior petition; thus, the petition was procedurally barred.<sup>8</sup> Further, we note that this court already determined in the prior post-conviction appeal that appellant was excluded from applying the increased amount of statutory good time credits pursuant to the 2007 legislative amendments to his minimum term because he was convicted of a Category B felony. The doctrine of the law of the case prevents further litigation of this issue and cannot be avoided by a more detailed and precisely focused argument made upon reflection of the prior proceedings.<sup>9</sup> Therefore, we affirm the order of the district court dismissing the petition.

Moreover as a separate and independent ground to deny relief, appellant's claim lacked merit. Pursuant to the 2007 amendments to NRS 209.4465, appellant was eligible to receive a deduction of 10 days of statutory good time credits from the start date of his incarceration in 2002 through June 30, 2007, and a deduction of 20 days of statutory good time credits beginning July 1, 2007. The Legislature did not provide for retroactive application of statutory good time credits to the maximum term to an individual in appellant's position.<sup>10</sup>

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<sup>7</sup>NRS 34.810(2).

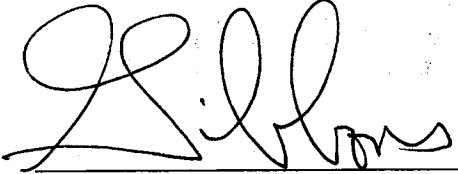
<sup>8</sup>NRS 34.810(3).

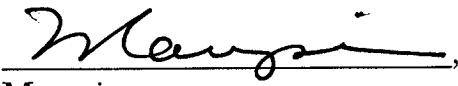
<sup>9</sup>Hall v. State, 91 Nev. 314, 535 P.2d 797 (1975).

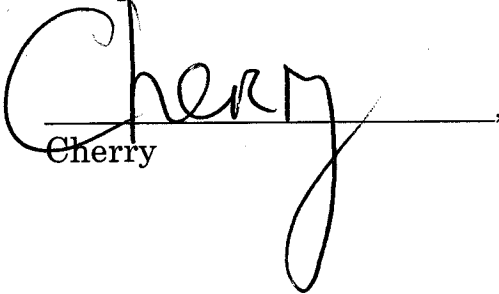
<sup>10</sup>2007 Nev. Stat., ch. 525, § 21, at 3196.

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>11</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Cherry

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

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<sup>11</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).