

IN THE SUPREME COURT OF THE STATE OF NEVADA

TIMOTHY GLEN WHITE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 51327

**FILED**

OCT 13 2008

TRACIE A. 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 denying a petition for a writ of mandamus. First Judicial District Court, Carson City; James Todd Russell, Judge.

Appellant was convicted in the Second Judicial District Court of possession of a stolen vehicle in district court case number CR05-2707 and sentenced to serve a term of 24 to 60 months in the Nevada State Prison with 40 days of credit for time served. Appellant was also convicted in the Second Judicial District Court of obtaining money by false pretenses in district court case number CR06-0649 and sentenced to serve a term of 12 to 48 months in the Nevada State Prison with no credit for time served. These sentences were ordered to run concurrently.

On December 18, 2007, appellant filed a proper person petition for a writ of mandamus in the First Judicial District Court. The State opposed the petition, and appellant filed a response. On February 6, 2008, the district court denied the petition. This appeal followed.

In his petition, appellant claimed that the Department of Corrections (the Department) was not properly applying good time credits in violation of the 2007 amendments to NRS 209.4465. Appellant asserted

that he did not receive 20 days of statutory good time credits retroactive to the effective amendment day of July 1, 2007. Appellant complained that his projected expiration date continued to move farther out even though he had no disciplinary infractions and continued to program diligently. Appellant provided his own calculation of credits in support of his argument.

Preliminarily, we note that appellant's claims challenge the computation of time served and as such they should have been raised in a post-conviction petition for a writ of habeas corpus.<sup>1</sup> Nevertheless, appellant failed to demonstrate that he was entitled to any additional credits in his petition.

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> Beginning July 1, 2007, 20 days would be deducted from the maximum term imposed by the sentence for each month served.<sup>3</sup> The Legislature further provided that these credits would be applied to eligibility for parole and that for certain offenders these credits must be deducted from the minimum term imposed until the offender becomes eligible for parole.<sup>4</sup> In determining the effect of the amendments, the Legislature provided that the

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<sup>1</sup>See NRS 34.724(2)(c).

<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(7)(a)).

<sup>4</sup>2007 Nev. Stat., ch. 525, § 5, at 3177 (NRS 209.4465(7)(b), (8)).

amendments would apply retroactively to July 1, 2000, to reduce the minimum term of imprisonment of an offender described in subsection 8 of NRS 209.4465, who was in the custody of the Department of Corrections before July 1, 2007, and who remained in that custody on July 1, 2007.<sup>5</sup> The increased amount of statutory good time credits applied to the maximum term imposed by the sentence was not given retroactive effect to an offender in petitioner's situation, but rather the application of those credits to the maximum term was to begin July 1, 2007.<sup>6</sup> Thus, contrary to appellant's calculations applying the increased amount of statutory good time credits retroactively to the maximum term imposed by the sentence, appellant was only entitled to apply 20 days of statutory good time credits to the maximum term imposed by the sentence beginning July 1, 2007. Appellant acknowledged that he went to the parole board early, and thus, it appears from the record that the Department carried out the legislature's intent of only applying the increased amount of credits retroactively to the minimum term for parole eligibility. The correspondence submitted below indicated that during the Department's implementation of a new computer system the projected expiration date was erroneously calculated and the error had been fixed. The State provided a credit history indicating that the Department was applying the statutory credits pursuant to NRS 209.4465. Appellant failed to

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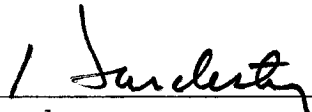
<sup>5</sup>2007 Nev. Stat., ch. 525, § 21, at 3196.

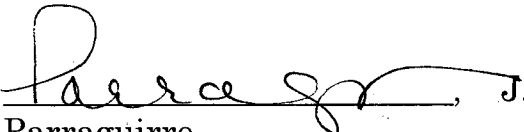
<sup>6</sup>2007 Nev. Stat., ch. 525, § 21, at 3196. The legislature provided limited retroactivity for the application of the increased amount of credits to the maximum term imposed by the sentence to offenders who were placed on parole before July 1, 2007. Id.

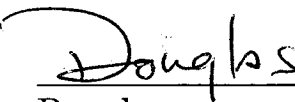
demonstrate that he was entitled to any additional credit or that his projected expiration date was in error.

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>7</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>8</sup>

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Douglas

cc: Hon. James Todd Russell, District Judge  
Timothy Glen White  
Attorney General Catherine Cortez Masto/Carson City  
Carson City Clerk

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<sup>7</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

<sup>8</sup>We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.