

IN THE SUPREME COURT OF THE STATE OF NEVADA

FREDRICK L. CARR,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 51499

FILED

OCT 28 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. Eighth Judicial District Court, Clark County; Valorie Vega, Judge.

On September 30, 2005, the district court convicted appellant, pursuant to a guilty plea, of one count of coercion (a Category B felony). The district court sentenced appellant to serve 24 to 72 months in the Nevada State Prison. The district court suspended the sentence and placed appellant on probation for a period not to exceed 5 years. The district court revoked appellant's probation on November 22, 2006, and entered an amended judgment of conviction providing appellant with 199 days of credit for time served.

On February 19, 2008, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State filed a motion to dismiss the petition. On May 23, 2008, the district court denied the petition. This appeal followed.

In his petition, appellant claimed he was not receiving the appropriate amount of statutory good time credits. Appellant claimed that he should receive 20 days of credit per month for the time he spent on probation from September 23, 2005 thru October 11, 2006 and the time he has spent incarcerated since his probation was revoked.

Claim for Credits Relating to Period on Probation

In 2007, the Nevada Legislature amended NRS 176A.500 to provide that an offender sentenced to a period of probation for a felony who did not have a serious infraction of the Division's regulations, terms and conditions of probation, or laws of the State and who performed in a "faithful, orderly and peaceable manner the duties assigned to him, must be allowed for the period of his probation a deduction of 20 days from that period for each month he serves."¹ The legislature further provided that this provision would apply retroactively to "reduce the period of probation of such an offender" commencing on July 1, 2006.²

Appellant failed to demonstrate that he was entitled to any additional credits in the instant case. The record indicates that appellant began his term of probation on September 23, 2005, and that his probation was revoked on November 16, 2006. Nothing in NRS 176A.500(5) provides for statutory credit earned while on probation to be applied to a petitioner's maximum sentence; rather, these credits only apply to reduce

¹2007 Nev. Stat., ch. 525, § 8.7, at 3185 (NRS 176A.500).

²2007 Nev. Stat., ch. 525, § 21, at 3196.

the period of probation. Because appellant's probation was revoked, his claim for credits earned during the period of probation is without merit in the instant case.³

Claim for Additional Credits After the Revocation of Probation

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.⁴ 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.⁵ 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

³Although appellant may have been eligible to receive and apply to probation the statutory credits earned pursuant to NRS 176A.500 beginning July 1, 2006, a bench warrant issued on August 14, 2006, and any period after this date while the warrant was in effect would not be considered a period of probation. See NRS 176A.500(2).

⁴2007 Nev. Stat., ch. 525, § 5, at 3176 (NRS 209.4465(1)).

⁵2007 Nev. Stat., ch. 525, § 5, at 3177 (NRS 209.4465(8)).

Department of Corrections on and before July 1, 2007.⁶ 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.⁷ 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.⁸

In the instant case, appellant was convicted of a Category B felony, and thus, he was only entitled to receive the increased amount of statutory good time credits beginning July 1, 2007.⁹ The credit history report attached to the State's motion to dismiss indicates that appellant began receiving the increased amount of credits on July 1, 2007. Thus, appellant failed to demonstrate that he was entitled to any additional statutory good time credits for the period after his probation revocation.

⁶2007 Nev. Stat., ch. 525, § 21, at 3196.

⁷NRS 209.4465(8)(d).


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


⁹NRS 207.190.

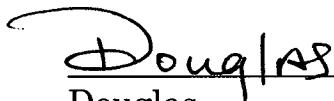
Conclusion

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.¹⁰ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

cc: Hon. Valorie Vega, District Judge
Fredrick L. Carr
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

¹⁰See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).