

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONALD JONES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 51722

FILED

NOV 14 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY: *A. Ingersoll*
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; Jackie Glass, Judge.

We have reviewed the record on appeal and we conclude that the district court did not err in denying appellant's petition for the reasons stated in the attached order.¹ Therefore, briefing and oral argument are not warranted in this case.² Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Cherry
_____, J.
Cherry

Maupin
_____, J.
Maupin

Saitta
_____, J.
Saitta

¹Contrary to appellant's assertions, appellant was not entitled to retroactive application of the increased amount of statutory good time credits to his maximum sentence because he was convicted of a Category B felony. See 2007 Nev. Stat., ch. 525, §§ 5, 21, at 3176-77, 3196.

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

cc: Hon. Jackie Glass, District Judge
Donald Jones
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

ORIGINAL

30

1 **ORDR**
2 **CATHERINE CORTEZ MASTO**
3 **Attorney General**
4 **By: JAMIE J. RESCH**
5 **Deputy Attorney General**
6 **Nevada Bar Number 7154**
7 **Criminal Justice Division**
8 **555 E Washington Avenue #3900**
9 **Las Vegas, Nevada 89101**
10 **(702) 486-3420**
11 **Facsimile: (702) 486-3768**
12 **Attorney for State of Nevada**

FILED

APR 23 1 42 PM '08

Christina S. P...
CLERK OF THE COURT

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 * * *

11 **DONALD JONES,**)
12 **Petitioner,**)
13 **vs.**)
14 **LENARD VARE, Warden, et.al.,**)
15 **Respondents.**)

CASE NO.: C175214
DEPT. NO.: 5

Date of Hearing: April 15, 2008
Time of Hearing: 8:30 a.m.

18 **FINDINGS OF FACT, CONCLUSIONS OF LAW, ORDER DENYING PETITION FOR WRIT**
19 **OF HABEAS CORPUS (POST CONVICTION)**

20 **THIS CAUSE** having come on for hearing before the Honorable JACKIE GLASS,
21 **District Court Judge,** on the 15th day of April, 2008, the Petitioner not being present, in proper
22 **person,** and the Respondents represented by CATHERINE CORTEZ MASTO, Attorney
23 **General for the State of Nevada,** by and through Jamie J. Resch, Deputy Attorney General,
24 **and the Court** having considered the matter, including briefs, transcripts, arguments of
25 **counsel,** and all pleadings and documents on file herein, now, therefore, the Court makes the
26 **following findings of fact and conclusions of law:**

Attorney General's Office
555 E. Washington, Suite 3900
Las Vegas, NV 89101

RECEIVED
APR 23 2008
CLERK OF THE COURT

FINDINGS OF FACT

1
2 1. Jones is currently an inmate at Southern Nevada Correctional Center. On
3 August 14, 2001, this Court sentenced Jones on Count 1: Battery With a Deadly Weapon
4 Resulting in Substantial Bodily Harm. A sentence of 72-180 months in prison was imposed.

5 2. On February 20, 2008, Jones filed the instant Petition for Writ of Habeas
6 Corpus. The petition contains five grounds for relief, all of which challenge the computation of
7 good time credits under "AB510" (now enacted into law as NRS 209.4465).

8 3. Jones has failed to state with any specificity what errors he believes have been
9 committed by the Department of Corrections, and does not identify what he believes the
10 proper calculations to be. In response to the petition, Department of Corrections timekeeping
11 records were submitted and indicate the application of meritorious credits to Jones's sentence
12 is in compliance with NRS 209.4465.

13 4. The Court finds Jones has alleged insufficient facts to support his claims. NRS
14 34.735. Jones's claims amount to nothing more than unsubstantiated conclusions which are
15 belied by the record.

16 5. Jones's claims are baseless and amounted to nothing more than bare naked
17 allegations. Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984).

18 6. The Court finds Jones's petition is without merit and that an evidentiary hearing
19 is not required.

CONCLUSIONS OF LAW

20
21 1. NRS 209.4465 prescribes the method under which meritorious credits are
22 computed for offenders sentenced to prison from crimes committed after July 17, 1997. An
23 offender may earn up to twenty days of "good time" credit per month, and ten days of
24 "employment/study" time per month, above and beyond the day-for-day credit an inmate
25 receives by being incarcerated.

26 2. In Ground One, Jones contends he is only receiving 50% of the allotted credits
27 under NRS 209.4465. This claim is bald and conclusory, and lacks any specificity as to the
28 credits received or contended to be due. In addition, this claim is belied by the official records

1 of the Department of Corrections, which show no such reduction.

2 3. Ground Two appears to be nothing more than a statement that inmates may
3 earn additional credits under NRS 209.4465 by obtaining an education. Ground Two fails to
4 raise any particular allegation, and therefore fails to state a claim.

5 4. Ground Three contains a claim that Jones can no longer earn good time credits.
6 This claim is bald and conclusory, and lacks any specificity as to the credits received or
7 contended to be due. In addition, this claim is belied by the official records of the Department
8 of Corrections, which show Jones continues to earn good time credits as of the filing of his
9 petition.

10 5. Ground Four contains commentary concerning the alleged "legislative intent" of
11 AB 510. Ground Four fails to raise any particular allegation, and therefore fails to state a
12 claim.

13 6. Finally, Ground Five contains a claim that caseworkers at the Department of
14 Corrections either provided inaccurate information or would not assist in resolving Jones's
15 concerns. However, Ground Five does not allege any specific error concerning the
16 computation of meritorious credits, and as noted herein, records of the Department of
17 Corrections belie Jones's contentions of error.

18 7. Pursuant to NRS 34.770(1), the Court, upon review of the return, answer, and all
19 supporting documents which are filed, shall determine whether an evidentiary hearing is
20 required. The Nevada Supreme Court in Hargrove v. State, 100 Nev. 498, 686 P.2d 222
21 (1984), held that to the extent a petitioner advances merely "naked" allegations, he is not
22 entitled to an evidentiary hearing.

23 8. Furthermore, NRS 34.770 provides that if the reviewing court determines that a
24 petitioner is not entitled to relief and an evidentiary hearing is not required, the court shall
25 dismiss the petition without a hearing. An evidentiary hearing is not necessary in the instant
26 case as all of Jones's claims are bald, conclusory, and belied by the record. As such, Jones's
27 petition for post conviction relief should be denied.

28 ///

Attorney General's Office
555 E. Washington, Suite 3900
Las Vegas, NV 89101

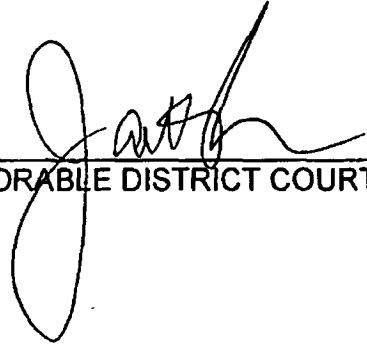
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

Based on the Findings of Fact and Conclusions of Law contained herein:

IT IS HEREBY ORDERED that the Petition for Post-Conviction Relief shall be, and it is, hereby **DENIED**.

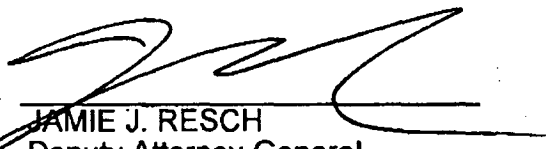
DATED this 22 day of April, 2008.



HONORABLE DISTRICT COURT JUDGE

Submitted By:

CATHERINE CORTEZ MASTO
Attorney General

By: 

JAMIE J. RESCH
Deputy Attorney General
Special Prosecutions Unit