

IN THE SUPREME COURT OF THE STATE OF NEVADA

JERRY WELCH,
Appellant,
vs.
NEVADA BOARD OF PAROLE
COMMISSIONERS AND WARDEN,
LOVELOCK CORRECTIONAL
CENTER, JACK PALMER,
Respondents.

No. 51770

FILED

OCT 15 2008

TRACE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court dismissing a petition for a writ of habeas corpus, or alternatively, a writ of mandamus. Sixth Judicial District Court, Pershing County; Richard Wagner, Judge.

On April 13, 1998, the district court convicted appellant, pursuant to a guilty plea, of one count of sexual assault. The district court sentenced appellant to serve a term of 10 to 25 years in the Nevada State Prison.

On January 24, 2008, appellant filed a proper person petition for a writ of habeas corpus, or alternatively, a writ of mandamus. The State opposed the petition. Appellant filed a response. On May 1, 2008, the district court dismissed the petition. This appeal followed.

In his petition, appellant claimed that he had been denied a parole hearing and claimed that the State had failed to provide him with a

parole application. Appellant sought release from custody, or alternatively, an order directing the Parole Board to immediately consider him for parole with a warning that failure to do so would result in his immediate release. Appellant also sought monetary damages.

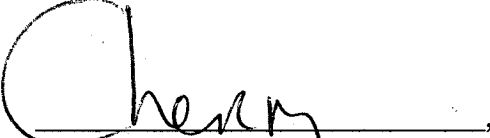
In dismissing the petition, the district court noted that parole was an act of grace of the State and that appellant was not entitled to parole. The district court further determined that the issue regarding the parole hearing was rendered moot because documents submitted by the State indicated that appellant had been scheduled for a parole hearing in June 2008. Based upon our review of the record on appeal, we conclude that the district court did not err in dismissing the petition.¹ The petition was rendered moot as appellant had been scheduled for a parole hearing in June 2008—the relief available for the failure to conduct a timely parole hearing. Further, as the district court determined, appellant was not entitled to release on parole as a remedy for the alleged failure to conduct a timely parole hearing as parole is an act of grace of the State and a prisoner has no right to be paroled from a lawfully imposed sentence.² Finally, appellant was not entitled to monetary damages in a petition for a writ of habeas corpus or a petition for a writ of mandamus. Therefore, we affirm the order of the district court denying the petition.


¹See NRS 34.360; NRS 34.160.


²See NRS 213.10705; Niergarth v. Warden, 105 Nev. 26, 768 P.2d 882 (1989).

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.³ Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 _____, J.
Cherry

 _____, J.
Maupin

 _____, J.
Saitta

cc: Hon. Richard Wagner, District Judge
Jerry Welch
Attorney General Catherine Cortez Masto/Carson City
Pershing County Clerk

³See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).