

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD DEEDS,
Appellant,
vs.
WARDEN, NORTHERN NEVADA
CORRECTIONAL CENTER, JIM
BENEDETTI,
Respondent.

No. 51782

FILED

DEC 24 2008
TRACIE 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. First Judicial District Court, Carson City; William A. Maddox, Judge.

On September 4, 2007, appellant filed a proper person petition for a writ of habeas corpus in the district court. The State filed a motion to dismiss the petition. Appellant filed a response to the State's motion. On May 5, 2008, the district court dismissed the petition. This appeal followed.

In his petition, appellant claimed that his due process rights were violated when a form utilized by the Psych Panel marked the box of abduction of the victim in the list of aggravating factors when he did not abduct the victim. Appellant further claimed that his due process rights were denied when the Parole Board considered parole guidelines not in place when appellant committed the offense or was convicted of the offense. Appellant claimed that the new guidelines increased the recommended amount of time that he must serve for parole release.

Parole is an act of grace; a prisoner has no constitutional right to parole.¹ NRS 213.10705 explicitly states that “it is not intended that the establishment of standards relating [to parole] create any such right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.” NRS 213.1099 does not create a constitutionally cognizable liberty interest.²

Based upon our review of the record on appeal, we conclude that the district court did not err in dismissing the petition. Regarding the information in the form filled out by the Psych Panel, appellant failed to demonstrate any protected due process rights were violated. Despite the alleged misinformation, appellant was certified as not posing a high risk to reoffend and was considered for parole release. The decision not to release appellant on parole may not be challenged.³ The Parole Board's application of revised parole guidelines did not violate the Ex Post Facto Clause.⁴ The subject of parole is within the legislative authority, and the Parole Board properly applied the amended parole guidelines to

¹See NRS 213.10705; Niergarth v. Warden, 105 Nev. 26, 28, 768 P.2d 882, 883 (1989).

²See Severance v. Armstrong, 96 Nev. 836, 839, 620 P.2d 369, 370 (1980).

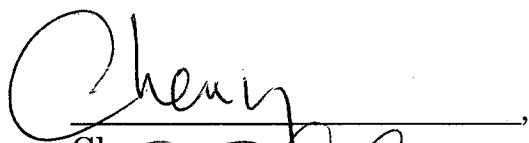
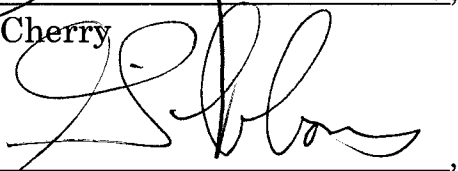
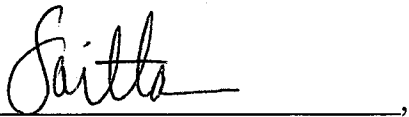
³See NRS 213.10705; Niergarth, 105 Nev. at 28, 768 P.2d at 883.

⁴See generally Vermouth v. Corrothers, 827 F.2d 599, 602, 604 (9th Cir. 1987) (recognizing that federal parole guidelines were not laws for ex post facto purposes and that a prisoner had no basis to expect parole guidelines to remain constant).

appellant.⁵ Appellant did not demonstrate that the Parole Board acted arbitrarily or capriciously in this matter. Therefore, we conclude that the district court did not err in dismissing the petition.

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.⁶ Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 _____, J.
Cherry
 _____, J.
Gibbons
 _____, J.
Saitta

cc: Hon. William A. Maddox, District Judge
Richard Deeds
Attorney General Catherine Cortez Masto/Carson City
Carson City Clerk

⁵See Pinana v. State, 76 Nev. 274, 283, 352 P.2d 824, 829 (1960); see also NRS 213.10885(1), (4), (6); NRS 213.1099(2); NAC 213.560.

⁶See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).