

IN THE SUPREME COURT OF THE STATE OF NEVADA

LUIS R. GASCA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 52051

**FILED**

DEC 18 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 dismissing a post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

On January 21, 1998, the district court convicted appellant, pursuant to a guilty plea, of one count of voluntary manslaughter with the use of a deadly weapon. The district court sentenced appellant to serve two consecutive terms of 24 to 120 months in the Nevada State Prison.

On April 15, 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. Appellant filed a response. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to conduct an evidentiary hearing. On June 24, 2008, the district court dismissed the petition. This appeal followed.

In his petition, appellant claimed that the Nevada Department of Corrections (the Department) incorrectly calculated his statutory good time and work time credits. Appellant claimed that he should have received 20 days of statutory good time credit per month

pursuant to NRS 209.4465 for a total of 1280 days of statutory good time credits. Appellant further claimed that he should receive 10 days of work credit per month for a total of 600 credits from January 1998 through March 13, 2008. Appellant appeared to claim that the failure of the prison to provide enough jobs deprived him of earning work credits.

Based upon our review of the record on appeal, we conclude that the district court did not err in dismissing the petition. Appellant mistakenly relied upon NRS 209.4465 in his calculations of credit. Appellant's credits were governed by NRS 209.446 as appellant's crime was committed on July 13, 1996.<sup>1</sup> NRS 209.446 states that an offender may earn a deduction of 10 days from his sentence for each month he serves and 10 days of credit for diligence in labor and study. The credit history report provided by the State indicates that appellant is receiving the correct amount of statutory good time credit. Appellant failed to demonstrate that he was entitled to any additional work credits. To the extent that appellant complained that the prison did not provide an adequate number of jobs, that complaint is a challenge to the conditions of confinement, which is not cognizable in a petition for a writ of habeas corpus.<sup>2</sup>


---

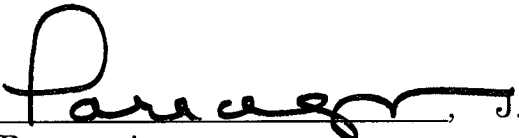
<sup>1</sup>Compare NRS 209.446(1) (setting forth statutory credits for an offender "who is sentenced to prison for a crime committed on or after July 1, 1985, but before July 17, 1997") with NRS 209.4465 (setting forth statutory credits for an offender "who is sentenced to prison for a crime committed on or after July 17, 1997").

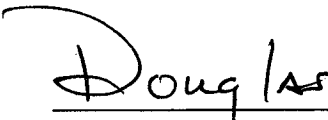
<sup>2</sup>See Bowen v. Warden, 100 Nev. 489, 686 P.2d 250 (1984).

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>3</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Donald M. Mosley, District Judge  
Luis R. Gasca  
Attorney General Catherine Cortez Masto/Carson City  
Eighth District Court Clerk

---

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