

IN THE SUPREME COURT OF THE STATE OF NEVADA

GUSTAVO M. AYALA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52107

FILED

DEC 17 2008

TRACEE 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 denying a post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; David Wall, Judge.

On April 15, 2008, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. On July 8, 2008, the district court denied the petition. This appeal followed.

In his petition, appellant challenged the computation of time served. Specifically, appellant claimed that he should have received 20 days of statutory good time credit per month from the date of sentencing, June 19, 2005. Appellant further claimed that he should have received 260 days of work credit for those periods of time that he tried to labor or study, but jobs were not available. Finally, he claimed the Nevada Department of Corrections [the Department] improperly calculated his credits by its own methodology contrary to NRS 209.4465.

Based upon our review of the record on appeal, we conclude that the district court did not err in denying the petition. Appellant failed to demonstrate that the Department improperly calculated his credits. Appellant was not entitled to receive 20 days of statutory good time credit per month from the date of sentencing, but rather appellant was eligible to receive 10 days of statutory good time credit per month from the date of sentencing through June 30, 2007, and 20 days of statutory good time credit per month from July 1, 2007, through the present.¹ A review of the credit history report attached to the State's opposition indicates that appellant received the correct amount of statutory good time credit and no mathematical formula had been applied to reduce his credits. Appellant failed to demonstrate that he was entitled to 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.²

¹See NRS 209.4465(1); 2003 Nev. Stat., ch. 426, § 8, at 2577; 2007 Nev. Stat., ch. 525, § 5, at 3176. The 2007 amendments increasing the amount of statutory good time credits did not apply retroactively because appellant was convicted of attempted murder, a category B felony. See 2007 Nev. Stat., ch. 525, § 21, at 3196; NRS 209.4465(8)(a),(d); NRS 200.030; NRS 193.330(1)(a).

²See 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.³ Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Douglas, J.
Douglas

cc: Hon. David Wall, District Judge
Gustavo M. Ayala
Attorney General Catherine Cortez Masto/Las Vegas
Eighth District Court Clerk

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