

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROY K. HARDIN,  
Appellant,  
vs.  
WARDEN, SOUTHERN DESERT  
CORRECTIONAL CENTER, BRIAN  
WILLIAMS,  
Respondent.

No. 53110

**FILED**

JUN 25 2009

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 denying a post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

On September 29, 2008, appellant filed a proper person post-conviction petition for a writ of habeas corpus challenging the computation of time served. The State filed an answer, to which appellant responded. On February 19, 2009, the district court denied the petition. This appeal followed.

In his petition, appellant claimed that the Department of Corrections improperly calculated his statutory credits in determining his

projected expiration date. Appellant performed his own calculations and determined that he should expire his term in 2009 rather than 2012.<sup>1</sup>

Appellant failed to demonstrate that he was entitled to any relief in the instant case. The credit history report indicated appellant received statutory good time credits in compliance with NRS 209.4465. The credit history log further indicated that appellant received work time credits during his incarceration in the instant case, and appellant failed to demonstrate that he was entitled to any additional credits.

It appears that appellant mistakenly believed that credits earned or to be earned in the future were deducted from the projected expiration date rather than from the maximum sentence.<sup>2</sup> A projected expiration date is calculated upon an assumption that an inmate earns the potential maximum statutory good time and work time credits every month served and it projects the earning of credits into the future. However, statutory credits earned are not deducted from the projected expiration date but from the maximum sentence and may apply to the

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<sup>1</sup>In 1999, appellant was sentenced to serve a term of life in prison with the possibility of parole. Appellant was resentenced in 2006 to a term of 8 to 20 years. Appellant stated that it would only take 12 years to expire a 20 year sentence, and subtracting the credits he had previously earned from the 12-year figure, would result in an expiration date in 2009.

<sup>2</sup>The maximum sentence is the amount of time that must be served in days to discharge the sentence imposed by the district court. The maximum sentence may be reduced by statutory good time, work time and other credits. See NRS 209.4465. In the instant case, appellant's maximum term was determined to be 7,305 days.

parole eligibility date under certain circumstances. See NRS 209.4465(7). The failure to earn the potential maximum statutory good time and work credits or the forfeiture of credits will cause a projected expiration date to move farther out while the earning of meritorious credits will cause the projected expiration date to move closer.<sup>3</sup> In the instant case, appellant only sporadically earned work credits, thus, it is unlikely he would expire his sentence at the earliest possible date because he failed to earn the maximum possible statutory credits. Because appellant failed to

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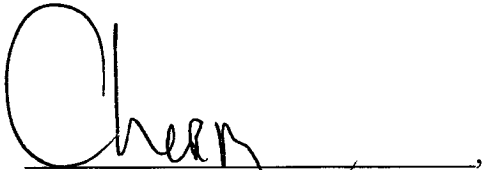
<sup>3</sup>A projected expiration date is only an estimation, and it therefore must be recalculated to reflect the actual credit earnings of the inmate. It is not that an inmate is serving additional time by the failure to earn the potential maximum statutory credits, but rather the inmate simply serves the lawfully imposed sentence without benefit of the potential maximum statutory credits reducing the maximum sentence to be served.

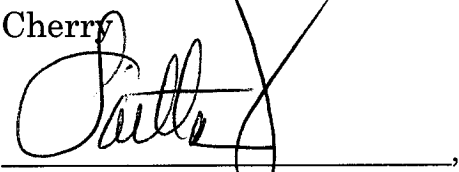
When statutorily-earned meritorious credits are applied to the maximum sentence, those credits may actually reduce the number of months to be served; thus, the assumption in calculating the projected expiration date about the number of statutory and work time credits to be earned in the future will no longer be correct because an inmate cannot earn statutory and work time credits for time he is not actually incarcerated. For example, if an inmate earns 90 days of meritorious credits, when those credits are subtracted from the maximum sentence, the inmate will have 3 fewer months of actual incarceration (3 months x 30 days = 90 days). Because the original/earlier projected expiration date already had the prisoner earning statutory good time and work time credits for those 3 months, the projected expiration date will have to be recalculated to exclude credits for those months that will no longer be served. NRS 209.4465 makes it clear that statutory good time credits are deducted for each month served, not for the months that an inmate might have served if he had not earned credits.

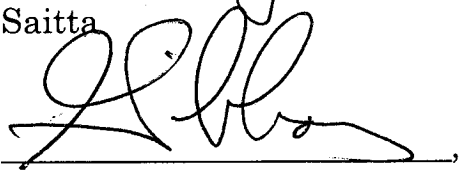
demonstrate that he was entitled to additional credits, we affirm the order of the district court denying the petition.

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

ORDER the judgment of the district court AFFIRMED.<sup>4</sup>

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Gibbons

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<sup>4</sup>We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.

cc: Hon. Jessie Elizabeth Walsh, District Judge  
Roy K. Hardin  
Attorney General Catherine Cortez Masto/Las Vegas  
Eighth District Court Clerk