


IN THE SUPREME COURT OF THE STATE OF NEVADA

MARK MOOR,
Appellant,
vs.
WARDEN, WARM SPRINGS
CORRECTIONAL CENTER,
STEPHANIE HUMPHREY; THE STATE
OF NEVADA; AND NEVADA
DEPARTMENT OF CORRECTIONS,
Respondents.

No. 53166

FILED

OCT 21 2009

TACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

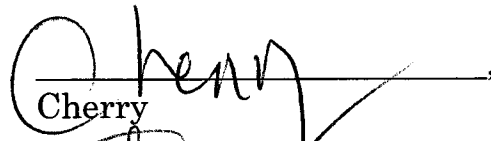
ORDER OF AFFIRMANCE

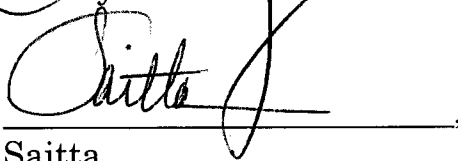
This is a proper person appeal from an order of the district court dismissing a post-conviction petition for a writ of habeas corpus. First Judicial District Court, Carson City; James E. Wilson, Judge.

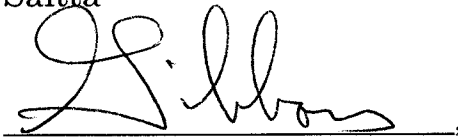
We have reviewed the record on appeal and we conclude that the district court did not err in dismissing appellant's petition for the reasons stated in the attached order. Therefore, briefing and oral argument are not warranted in this case. See Lockett v. Warden, 91 Nev.

681, 682, 541 P.2d 910, 911 (1975). Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


Cherry, J.


Saitta, J.


Gibbons, J.

cc: Hon. James E. Wilson, District Judge
Mark Moor
Attorney General Catherine Cortez Masto/Carson City
Carson City Clerk

¹We 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.

1 Case No. 08 EW 00070 1B

2 Dept. No. 2

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ALAN L. CYLER
CLERK
DEPUTY

6 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

7 **IN AND FOR CARSON CITY**

8 MARK MOOR,

9 Petitioner,

10 vs.

11 WARDEN STEPHANIE HUMPHREY, et al.,

12 Respondents.

ORDER

14 This Court has considered the Respondent's Motion to Dismiss and having reviewed the
15 documents and being fully advised of the premises makes the following findings of fact, conclusions of
16 law and enters the following order:

17 The defendant was given a parole hearing, albeit late, on December 8, 2008, and was denied
18 parole. The remedy for the Board's failure to hold a timely parole hearing is to hold a parole hearing.
19 See *Johnson v. Paparozzi*, 219 F. Supp. 2d 635, 642 (D. N.J. 2002). As the defendant has already
20 received a hearing, the claim is moot. The Court should not consider moot issues. *National Collegiate*
21 *Athletic Ass'n v. University of Nevada, Reno*, 97 Nev. 56, 624 P.2d 10 (1981).

22 Further, Petitioner sought monetary damages as relief. Habeas corpus, however, is not the
23 appropriate or even available remedy for damages claims. *Wolff v. McDonnell*, 418 U.S. 539, 554,
24 94S.Ct. 2963, 2973, 41 L.Ed.2d 935 (1974). Such a challenge is properly brought under a 42 U.S.C. §
25 1983 action, not a petition for writ of habeas corpus. *Sisk v. CSO Branch*, 974 F. 2d 116, 117 (9th Cir.
26 1992). Therefore, Moor's claims are improperly brought in a petition for writ of habeas corpus and are
27 not cognizable in this action. Therefore,

28 ...

