

IN THE SUPREME COURT OF THE STATE OF NEVADA

BYRON ELROY CRUTCHER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54062

FILED

MAR 10 2010

FRACIE 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 post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; David B. Barker, Judge.


In his petition filed on February 2, 2009, appellant challenged the denial of parole, specifically arguing that the parole board's decision was arbitrary and capricious, he had a right to be present at his 2008 parole hearing, and that parole was denied based on his race. Appellant had no right to be granted parole as parole is an act of grace and a prisoner has no right to serve less than the lawfully imposed sentence. See NRS 213.10705; Niergarth v. Warden, 105 Nev. 26, 768 P.2d 882 (1989). Further, appellant was not entitled to be present at the 2008 hearing. See 2008 Nev. Stat. 24th Special Session, ch. 6, § 2, at 7 (suspending the right to be present at a parole hearing until June 30, 2009). Finally, appellant failed to demonstrate that race played any part

in the decision to deny parole. Therefore, the district court did not err in dismissing appellant's petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. David B. Barker, District Judge
Byron Elroy Crutcher
Attorney General/Carson City
Attorney General/Las Vegas
Clark County District Attorney
Eighth District Court 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.