

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALEJANDRO JOSE CASTILLO,  
Appellant,

vs.

THE STATE OF NEVADA BOARD OF  
PAROLE COMMISSIONERS; T.  
GOODSON; J. MORROW; D. SALLING;  
AND C. BISBEE,  
Respondents.

No. 54266

**FILED**

DEC 11 2009

TRACIE A. LINDEMAN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a petition for a writ of habeas corpus, or alternatively, a writ of mandamus. Sixth Judicial District Court, Pershing County; Richard Wagner, Judge.

On January 14, 2008, appellant filed a proper person petition for a writ of habeas corpus in the district court. Appellant then amended the petition to include the label, "petition for a writ of mandamus." The State opposed the petition. On June 29, 2009, the district court denied the petition. This appeal followed.

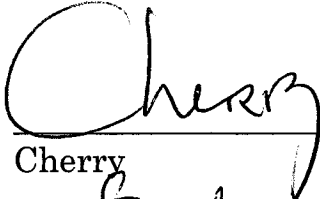
In his petition, appellant claimed that the Board of Parole Commissioners erroneously determined that he would have to wait five years for a parole hearing after the Board had denied parole in 2003. When appellant was convicted of sexual assault and battery with intent to commit sexual assault in 1993, NRS 213.142 required a parole rehearing to occur no more than three years after the denial of an application for parole. 1973 Nev. Stat., ch. 129, §2, at 190. The legislature amended NRS 213.142 in 1995 to increase the maximum time for a parole rehearing from


three to five years for prisoners who had more than ten years remaining on the sentence. See 1995 Nev. Stat., ch. 444, § 32, at 1360-61. Appellant claimed that various constitutional rights were violated by application of NRS 213.142 as amended.

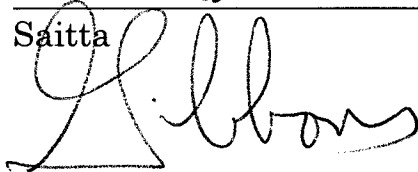
Based upon our review of the record on appeal, we conclude that the district court did not err in denying the petition as moot. After his petition was filed, appellant was placed before the Parole Board for a hearing in 2008. The Parole Board further amended the 2003 order to provide that appellant was to have been seen in 2006. The consequence of this amended order was that when appellant was denied parole in 2008, the parole rehearing date was set for 2009, three years from the 2006 amended date. Appellant has received the only remedy possible, a parole hearing, in this case. Appellant was not entitled to be granted parole to remedy the error. Therefore, we affirm the order of the district court.

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.

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

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

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

cc: Hon. Richard Wagner, District Judge  
Alejandro Jose Castillo  
Attorney General Catherine Cortez Masto/Reno  
Pershing County Clerk