

IN THE SUPREME COURT OF THE STATE OF NEVADA

CURTIS LUNDY DOWNING,
Appellant,
vs.
WARDEN, SOUTHERN DESERT
CORRECTIONAL CENTER, BRIAN
WILLIAMS,
Respondent.

No. 54687

FILED

APR 07 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Ingersoll*
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.¹ Eighth Judicial District Court, Clark County; Kathy A. Hardcastle, Judge.

In his petition filed on May 29, 2009, appellant claimed that the Nevada Department of Corrections failed to provide him with work credits for various periods of his incarceration. Appellant failed to demonstrate that he was entitled to the relief sought. NRS 209.446, the statutory credit statute applicable to appellant for the sentence he is currently serving, did not create a liberty interest in earning work time credits, but rather provides that an inmate who does perform labor may

¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

earn work credits.² NRS 209.446(2). Appellant acknowledged that he did not work during the periods in question. Appellant further failed to demonstrate that he has any liberty interest in being provided prison employment; notably, such employment depends upon a variety of factors that are within the control of prison authorities.³ Therefore, the district court did not err in denying this claim.

Next, appellant claimed that the Department improperly computed his statutory good time credits. Appellant argued that he should receive 20 days of credit for each month he is sentenced to serve, rather than for the time actually served. Appellant's reliance upon NRS 209.4465 was misplaced as appellant's statutory good time credits for the sentence he is currently serving is governed by NRS 209.446. The credit history report provided by the State indicates that appellant is being provided the appropriate credits. Appellant's claim that he should receive credits for the sentence imposed and not for the time actually served was patently without merit. NRS 209.446(1)(a). Therefore, the district court did not err in denying this claim.

Finally, appellant claimed that the Department failed to provide him with meritorious credits for programs that he had attended and did not provide enough opportunities to earn meritorious credits.

²Contrary to appellant's assertion, he cannot raise claims relating to the earning of credits for future sentences arising from separate judgments of conviction that he has not begun to serve because those claims are not yet ripe.

³The fact that the projected expiration date factors in work credits does not create any liberty interest in the earning of those credits.

Appellant failed to demonstrate that he was entitled to any additional meritorious credits. NRS 209.448; NRS 209.449. Therefore, the district court did not err in denying this claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁴

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

cc: Hon. Kathy A. Hardcastle, District Judge
Curtis Lundy Downing
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk

⁴We 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.