

IN THE SUPREME COURT OF THE STATE OF NEVADA

JESUS MARTINEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54769

FILED

FEB 05 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
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.¹ Sixth Judicial District Court, Pershing County; Richard Wagner, Judge.


In his April 3, 2009 petition, appellant challenged the denial of parole. Appellant complained that the application of revised parole guidelines violated ex post facto principles and he was improperly scored in violation of various constitutional rights. The district court denied the petition, concluding that there was no right to parole and no violation of any protected rights.


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 (providing that the establishment

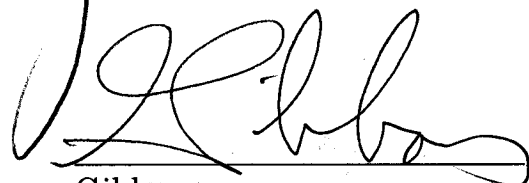
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

parole standards does not create any right or interest in liberty or property or establish a basis for any cause of action against the State); NRS 213.1099(1) (providing that the decision to release on parole is discretionary); Weakland v. Bd. of Parole Comm'rs, 100 Nev. 218, 678 P.2d 1158 (1984) (recognizing that Nevada's parole statutory scheme did not create a constitutionally cognizable liberty interest). The Parole Board may deviate from the guidelines in deciding whether to grant or deny parole. NRS 213.1099(2) (setting forth the factors to consider); NAC 213.560 (providing that the Parole Board may deviate from its standards based upon several factors). Thus, appellant cannot demonstrate that he was prejudiced by the score he received. Moreover, parole guidelines are not laws for ex post facto purposes. See generally Vermouth v. Corrothers, 827 F.2d 599 (9th Cir. 1987). Appellant failed to demonstrate the violation of any protected rights. Therefore, we conclude that the district court did not err in denying the petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Richard Wagner, District Judge
Jesus Martinez
Attorney General/Carson City
Pershing County Clerk