IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHNNY YARNELL WILLIAMS,
Appellant,
vs.
WARDEN BILL DONAT,
Respondent.

No. 54954

FILED

JUN 10 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 post-conviction petition for a writ of habeas corpus.[1] First Judicial District Court, Carson City; James E. Wilson, Judge.

In his petition, filed on February 12, 2008, appellant claimed that the Nevada Department of Corrections improperly calculated his good time credits for his primary offenses and the deadly weapon enhancements based on separate sentences rather than one sentence, thereby applying this court's holding in Nevada Dep't Prisons v. Bowen, retroactively and to his detriment. 103 Nev. 477, 745 P.2d 697 (1987) (overruling Biffath v. Warden, 95 Nev. 260, 593 P.2d 51 (1979), and Director, Prisons v. Biffath, 97 Nev. 18, 621 P.2d 1113 (1981)) (holding that primary and enhancement sentences must be treated as separate sentences for all purposes, rather than treating them as one continuous sentence).

[1]This 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 Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

Appellant failed to demonstrate he was entitled to relief. Preliminarily we note that appellant failed to provide an explanation for his extreme delay[2] in filing the instant petition and he appears to have acquiesced to the Department's treatment of his sentences. See NRS 34.810(1)(a). This delay makes a response and court review nearly impossible. Most importantly, appellant failed to demonstrate that he was prejudiced by the application of Bowen to his case or that Bowen had even been applied because appellant failed to support his claim with sufficient factual allegations which, if true, would have entitled to him to relief. Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984). Therefore, the district court did not err in denying the petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.[3]

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

[2]It has been approximately 22 years since appellant's judgment of conviction and approximately 16 years from the date he started serving his sentence.

[3]We 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.

cc: Hon. James E. Wilson, District Judge
Johnny Yarnell Williams
Attorney General/Carson City
Attorney General/Reno
Carson City Clerk