

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALEX CHRISTOPHER EWING,
Appellant,
vs.
WARDEN, NEVADA STATE PRISON,
BILL DONAT AND THE STATE OF
NEVADA,
Respondents.

No. 54970

FILED

JUL 15 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 dismissing 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 5, 2008, appellant claimed that the Nevada Department of Corrections had 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, 481 n.4, 745 P.2d 697 700 n.4, (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

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

separate sentences for all purposes, rather than treating them as one continuous sentence).

Appellant failed to demonstrate he was entitled to relief. Preliminarily, we note that appellant failed to provide an explanation for his 21-year delay in filing the instant petition and appears to have acquiesced to the Department's treatment of his sentences. 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 because appellant failed to support his claim with sufficient factual allegations which, if true, would have entitled him to relief. See Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). Therefore, the district court did not err in dismissing the petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.²

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

²We 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
Alex Christopher Ewing
Attorney General/Carson City
Attorney General/Reno
Carson City Clerk