

IN THE SUPREME COURT OF THE STATE OF NEVADA

DON M. SAVAGE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55609

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 denying a post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Doug Smith, Judge.

Having reviewed the record on appeal, we conclude that substantial evidence supports the decision of the district court to deny relief and that the district court did not err as a matter of law. Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994). We therefore affirm the denial of the petition for the reasons stated in the attached district court order. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

J. Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

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).

cc: Hon. Doug Smith, District Judge
Don M. Savage
Attorney General/Las Vegas
Eighth District Court Clerk

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CLERK OF THE COURT

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8 DISTRICT COURT
 9 CLARK COUNTY, NEVADA

10 DONALD M. SAVAGE,
 11 Petitioner,
 12 v.
 13 STATE OF NEVADA, et al.,
 14 Respondents.

Case No: C228987

Dept No: VIII

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Hearing date: February 17, 2010
Hearing time: 8:30 a.m.

Attorney General's Office
555 E. Washington, Suite 3900
Las Vegas, NV 89101

16 The above-entitled Court, conducted a hearing on the proper person Petition for a Writ
 17 of Habeas Corpus filed by DONALD M. SAVAGE (hereinafter "SAVAGE") and hereby issues
 18 this Order finally disposing of said petition pursuant to NRS 34.830. SAVAGE, an inmate in
 19 the custody of the Nevada Department of Corrections housed at the High Desert State Prison,
 20 was not required to appear in support of his petition. The Respondents were represented by
 21 Senior Deputy Attorney General Thom Gover. Upon reviewing the Petition, the Respondents'
 22 Answer and the pleadings and papers on file herein, the Court makes the follow findings of
 23 fact and conclusions of law:

24 Inmate Savage is challenging the calculation of his sentence in the instant case,
 25 C228987.

26 The sentence in the instant case was ordered to be served consecutively with a 12-36
 27 month term of incarceration in case number C225638.

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Attorney General's Office
555 E. Washington, Suite 3900
Las Vegas, NV 89101

1 Based on the Nevada Department of Correction, Credit History by Sentence, reports
2 for case numbers C225638 and C228987, Savage expired his sentence in case number
3 C225638 on September 8, 2008 and began accumulating time in the consecutive case,
4 C228987, the next day on September 9, 2008.

5 The Nevada Department of Corrections correctly followed this Court's order, as
6 contained in the judgment of conviction, that the term of incarceration in case number
7 C228987 was to be served consecutively with the sentence in case number C225638.

8 NRS 213.1213 which provides: If a prisoner is sentenced pursuant to NRS 176.035 to
9 serve two or more concurrent sentences, whether or not the sentences are identical in length
10 or other characteristics, eligibility for parole from any of the concurrent sentences must be
11 based on the sentence which requires the longest period before the prisoner is eligible for
12 parole.

13 Savage's sentence in case number C225638 was one of four cases that were run
14 concurrent to one another; two of which were for terms of incarceration of 48-120 months. As
15 a result of the operation of NRS 213.1213, it is these longer sentences that controlled
16 Savage's eligibility for parole. The sentence in case number C225638 was only for a term of
17 12-36 months. As a result, Inmate Savage expired the full term of his sentence in case
18 number C225638 prior to the time he was ever eligible for parole on one of the concurrent 48-
19 120 month terms. Upon the expiration of C225638, NDOC began to credit time toward the
20 consecutive sentence in C228987.

21 Inmate Savage has suffered no due process violation.

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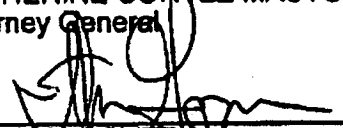
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1 IT IS HEREBY ORDERED, based upon the above findings of fact and conclusions of
2 law, that the claims raised in Savage's Petition are without merit and said petition is therefore
3 DENIED.

4 DATED this 25th day of February, 2010.

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7 
8 _____
9 DISTRICT COURT JUDGE *MS*

9 Submitted by:
10 CATHERINE CORTEZ MASTO
11 Attorney General

11 
12 By: _____
13 THOM GOVER
14 Senior Deputy Attorney General

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