

IN THE SUPREME COURT OF THE STATE OF NEVADA

ISMAEL SANTILLANES,
Appellant,
vs.
JACK PALMER, WARDEN,
Respondent.

No. 60513

FILED

DEC 12 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Angela*
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 Todd Russell, Judge.

In his petition, filed on December 27, 2011, appellant claimed that the Nevada Department of Corrections (NDOC) improperly calculated his sentences for his primary offense and its attendant deadly weapon enhancement based on separate sentences rather than one sentence, thereby applying this court's holding in Nevada Dep't Prisons v. Bowen, 103 Nev. 477, 745 P.2d 697 (1987), retroactively and to his detriment.


Appellant failed to demonstrate that he was entitled to any relief. Appellant received a document in 1988 that indicated a change in the way that his sentence was being calculated. Appellant failed to explain his nearly 24-year delay in filing the instant petition to challenge that change, and the delay implied his acquiescence in how his sentences were

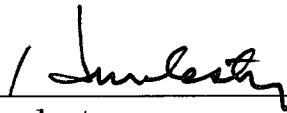
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

being calculated. Moreover, appellant has already been paroled to his consecutive sentence for the deadly weapon enhancement, and no statutory authority or case law permits a retroactive grant of parole. Niergarth v. Warden, 105 Nev. 26, 29, 768 P.2d 882, 884 (1989). Thus any relief granted would simply result in appellant being paroled anew to the enhancement sentence, which he is currently serving. We therefore conclude that the district court did not err in denying the petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Saitta


_____, J.
Pickering


_____, J.
Hardesty

cc: Hon. James Todd Russell, District Judge
Ismael Santillanes
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk