

IN THE SUPREME COURT OF THE STATE OF NEVADA

MIGUEL MARTIN CASTRO,
Appellant,
vs.
ELDON K. MCDANIEL,
Respondent.

No. 61520

FILED

DEC 12 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a proper person appeal from an order of the district court granting a post-conviction petition for a writ of habeas corpus.¹ Seventh Judicial District Court, White Pine County; Steve L. Dobrescu, Judge.

In his petition, filed on September 4, 2007, appellant claimed that the Nevada Department of Corrections (NDOC) improperly calculated his sentences by 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. The district court denied the petition. On appeal, this court

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).

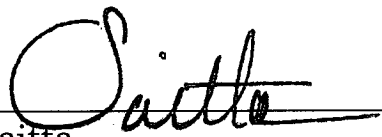
affirmed the decision in part but reversed and remanded the decision as it applied to the sentence which appellant had not yet begun to serve. Castro v. Warden, Docket No. 56688 (Order Affirming in Part, Reversing in Part and Remanding, March 17, 2011). Specifically, this court concluded that the record did not support the district court's conclusion that Bowen was not to appellant's detriment and further ordered that should the State be unable to provide data to justify its application of Bowen, appellant be given the choice of whether his final sentence would be calculated under Bowen or under Biffath v. Warden, 95 Nev. 260, 593 P.2d 51 (1979), overruled by Bowen, 103 Nev. at 481, 745 P.2d at 699-700.

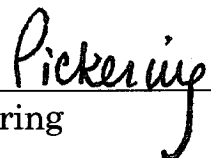
Upon remand and after setting a briefing schedule, the district court concluded that calculating appellant's sentence pursuant to Bowen would be to his detriment and filed an order directing NDOC to calculate appellant's final sentence and enhancement pursuant to Biffath.² Because the district court's order granted appellant the relief he had sought in his post-conviction habeas petition, the order effectively granted appellant's

²The district court's finding was supported by substantial evidence in the record. Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994).

petition.³ Appellant was thus not an aggrieved party and has no standing to appeal. See NRS 177.015. Accordingly, we

ORDER this appeal DISMISSED.⁴


Saitta, J.


Pickering, J.


Hardesty, J.

³To the extent appellant appeals the district court's denial of his claim as it relates to sentences appellant had already expired or had been paroled from, such claims were denied in Castro v. Warden, Docket No. 56688 (Order Affirming in Part, Reversing in Part and Remanding, March 17, 2011), and, accordingly are barred by the doctrine of the law of the case. Hall v. State, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975).

⁴We 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. Steve L. Dobrescu, District Judge
Miguel Martin Castro
Attorney General/Carson City
Attorney General/Ely
White Pine County District Attorney
White Pine County Clerk