

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICKY JAMES NGAUE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 62967

FILED

SEP 19 2013

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 Eighth Judicial District Court, Clark County; Adriana Escobar, Judge.

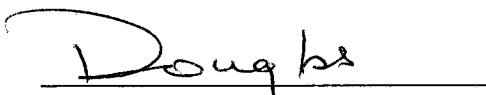
In his petition filed on October 6, 2009, appellant claimed that NRS 209.4465(8) violated the Equal Protection Clause. We conclude that the district court did not err in rejecting this argument as appellant was not a member of a suspect class, and there is a rational basis for treating more serious offenders differently from less serious offenders when applying credits that accelerate parole eligibility dates. *See Gaines v. State*, 116 Nev. 359, 371, 998 P.2d 166, 173 (2000) (recognizing that the first step in an equal-protection analysis is to determine the level of scrutiny to be applied, that strict-scrutiny analysis is only applied in cases involving fundamental rights or cases involving suspect classes, and that under a lesser standard of review, legislation will be upheld if the


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).

challenged classification is rationally related to a legitimate government interest); *see also Graziano v. Pataki*, 689 F.3d 110, 117 (2d Cir. 2012) (recognizing that prisoners, whether in the aggregate or specified by offense, are not a suspect class and rational basis test will apply) (citation omitted); *Glauner v. Miller*, 184 F.3d 1053, 1054 (9th Cir. 1999) (recognizing that prisoners are not a suspect class and applying rational basis test).² Appellant's separation-of-powers challenge to this statutory provision was patently without merit and based upon a misunderstanding of the separation-of-powers doctrine. Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Saitta

²Remarkably, and contrary to appellant's implicit argument, appellant was not similarly situated to offenders who committed less serious offenses.

³We 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. Adriana Escobar, District Judge
Ricky James Ngaue
Attorney General/Las Vegas
Eighth District Court Clerk