

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAUSTEVEION DELANO JOHNSON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 63553

**FILED**

**FEB 12 2014**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *S. Malone*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is a proper person appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus.<sup>1</sup> Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

In his petition filed on May 17, 2013, appellant challenged the denial of parole, claiming that the Parole Board violated his due process rights when it found aggravating factors based on a mistake in his presentence investigation report and a mistake regarding his custody level at the time of the parole hearing. We conclude that the district court did not err in denying his petition.<sup>2</sup> Appellant's claims were not cognizable in

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<sup>1</sup>This 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).

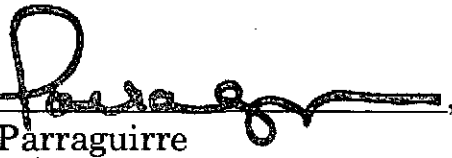
<sup>2</sup>We note that the district court concluded that the petition was barred pursuant to NRS 34.726; however NRS 34.726 does not apply because appellant did not challenge the validity of his judgment of conviction or sentence. We nevertheless affirm the denial of the petition


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a petition for a writ of habeas corpus because appellant was lawfully confined pursuant to a valid judgment of conviction, and appellant's claims relating to parole do not demonstrate unlawful confinement. See NRS 34.360. Furthermore, any challenge to the decision to deny parole was without merit because parole is an act of grace of the State and there is no cause of action when parole has been denied. See NRS 213.10705; *Niergarth v. Warden*, 105 Nev. 26, 28, 768 P.2d 882, 883 (1989). Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>3</sup>

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Saitta

... continued

for the reasons set forth above. *Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970).

<sup>3</sup>We 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. Michelle Leavitt, District Judge  
Lausteveion Delano Johnson  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk