

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTHONY BAILEY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 67515

**FILED**

**FEB 17 2016**

FRANCIS LINDSEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a district court order denying a postconviction petition for a writ of habeas corpus as moot. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

Appellant Anthony Bailey asserts the district court erred by denying his postconviction petition filed on December 8, 2014, that challenged the computation of the time he has served as moot. Bailey acknowledges he was no longer in the custody of the Nevada Department of Corrections as of February 24, 2015, the date of the district court hearing on the petition, but argues he has a due process right to the credit he was seeking and the issue is capable of repetition yet evading review.

We need not consider Bailey's assertion that his computation of credit claim was capable of repetition yet evading review because he did not argue this below. *See McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999) (this court generally declines to consider issues which were not raised in the district court in the first instance). Moreover, he has failed to demonstrate that this exception to the mootness doctrine applies. *Personhood Nevada v. Bristol*, 126 Nev. 599, 602, 245 P.3d 572, 574 (2010) (explaining a court may consider a moot claim if the issue


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involves a matter of widespread importance, the duration of the challenged action is relatively short, and there is a likelihood that a similar issue will arise in the future).

Because Bailey is no longer in the custody of the Nevada Department of Corrections we conclude the district court did not err by denying the petition as moot. *Johnson v. Dir., Nev. Dep't of Prisons*, 105 Nev. 314, 316, 774 P.2d 1047, 1049 (1989); see also *Spencer v. Kemna*, 523 U.S. 1, 8, 14 (1998) (requiring proof of continuing collateral consequences). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Michael Villani, District Judge  
Law Offices of Martin Hart, LLC  
Attorney General/Carson City  
Attorney General/Las Vegas  
Clark County District Attorney  
Eighth District Court Clerk