

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MALCOLM GRAY,
Appellant,
vs.
DWIGHT NEVEN, WARDEN,
Respondent.

No. 70514

FILED

NOV 18 2016

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying a postconviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Jennifer P. Togliatti, Judge.

Appellant Malcolm Gray claims the district court erred by denying his February 18, 2016, petition challenging the denial of parole. He claims he was improperly denied parole because he is black and his victim was white and the Parole Board is illegally empaneled. Gray's claims were not cognizable in a postconviction petition for a writ of habeas corpus because Gray was lawfully confined pursuant to a valid judgment of conviction and Gray's claims relating to the parole hearing did not challenge the judgment of conviction or the computation of time served. *See* NRS 34.720.


As a separate and independent ground to deny relief, Gray's challenge to the denial of parole was without merit because parole is an act of grace of the State and there is no cause of action when parole has


¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

been denied. See NRS 213.10705; *Niergarth v. Warden*, 105 Nev. 26, 28, 768 P.2d 882, 883 (1989). Therefore, the district court did not err in denying the petition, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Jennifer P. Togliatti, District Judge
Malcolm Gray
Attorney General/Carson City
Attorney General/Las Vegas
Clark County District Attorney
Eighth District Court Clerk