

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID MATTHEW MILNER,
Appellant,
vs.
HAROLD WICKMAN, WARDEN, WARM
SPRINGS CORRECTIONAL CENTER,
Respondent.

No. 70599

FILED

APR 14 2017

ELIZABETH H. ...
CLERK OF THE SUPREME COURT
A. Wilcox

ORDER DISMISSING APPEAL

This is a pro se appeal from an order of the district court denying appellant David Milner's April 14, 2016, postconviction petition for a writ of habeas corpus (credits). First Judicial District Court, Carson City; James Todd Russell, Judge.

Milner challenged the computation of time served as it applied to his parole eligibility. In response to an order of this court, the attorney general advises that Milner has no additional sentences left to serve and was released on parole in February 2017. The Nevada Department of Corrections has also returned to this court inmate mail addressed to Milner, with the notation "inmate not in custody." Because a parole hearing was the only relief available to Milner, he has in fact been granted parole, and no statutory authority or case law permits a retroactive grant of parole, see *Niergarth v. Warden*, 105 Nev. 26, 29, 768 P.2d 882, 884 (1989), Milner's claim is moot. See *Johnson v. Dir., Nev. Dep't. of Prisons*, 105 Nev. 314, 316, 774 P.2d 1047, 1049 (1989). Accordingly, we

ORDER this appeal DISMISSED.

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

17-12399

cc: Hon. James Todd Russell, District Judge
David Matthew Milner
Attorney General/Carson City
Carson City Clerk