

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

OSCAR HERNANDEZ,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN;
NEVADA DEPARTMENT OF
CORRECTIONS; AND THE STATE OF
NEVADA,
Respondents.

No. 72059

FILED

AUG 16 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Oscar Hernandez appeals from an order of the district court denying the “complaint and request Court ‘order’ to Nevada Department of corrections (NDOC) and Warden Brian Williams to properly ‘apply’ lawful stat time under statutes and AB 510 applications” he filed on June 23, 2016.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge.


In his complaint, Hernandez claimed the Nevada Department of Corrections improperly declined to apply his statutory credits toward his minimum term. The district court construed Hernandez’ complaint as a postconviction petition for a writ of habeas corpus and determined Hernandez was not entitled to relief because Hernandez is currently serving a prison term for trafficking in a controlled substance, a category B felony, *see* NRS 453.3385(1)(b), committed in 2012, and, for those reasons, the NDOC may only apply Hernandez’ statutory credits toward


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

his maximum term pursuant to NRS 209.4465(8)(d). Given these circumstances, we conclude the district court did not err by denying this claim. Further, we conclude Hernandez' claim was moot because he received a parole hearing in January of 2016. A parole hearing was the only relief available to Hernandez 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). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Linda Marie Bell, District Judge
Oscar Hernandez
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk