

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL ALLEN PARKS,
Appellant,
vs.
JAMES E. DZURENDA, DIRECTOR;
AND HAROLD WICKHAM, WARDEN,
Respondents.

No. 71526

FILED

AUG 16 2017

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

ORDER OF AFFIRMANCE

Michael Allen Parks appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus.¹ First Judicial District Court, Carson City; James E. Wilson, Judge.


Parks contends the district court erred in denying his claim that the Nevada Department of Corrections' failure to apply statutory credits to his parole eligibility violated his equal-protection rights. Parks argued the Legislature was arbitrary and irrational when it allowed disparate application of statutory credits to parole eligibility based solely on when a crime was committed or on its classification as a category A or B felony.

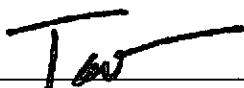
All persons similarly situated are entitled to equal protection of the law. U.S. Const. amend. XIV, §1; *Gaines v. State*, 116 Nev. 359, 371, 998 P.2d 166, 173 (2000). Offenders who commit crimes at different times, see *Weaver v. Graham*, 450 U.S. 24, 31-33 (1981); *Goldsworthy v.*

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

Hannifin, 86 Nev. 252, 255, 468 P.2d 350, 352 (1970), or who fall into different felony classifications are not similarly situated such that they need not be treated equally. Even if they were, where, as in the instant case, a classification is not based on a suspect class or does not affect fundamental rights, *Glauner v. Miller*, 184 F.3d 1053, 1054 (9th Cir. 1999) (“[P]risoners are not a suspect class and there is no fundamental constitutional right to parole.”), this court will uphold the legislation so long as “the challenged classification is rationally related to a legitimate governmental interest.” *Gaines*, 116 Nev. at 371, 998 P.2d at 173. Parks has not demonstrated there was no rational basis for applying credits in a different manner based upon offense classification and offense date. We therefore conclude the district court did not err in denying the petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. James E. Wilson, District Judge
Michael Allen Parks
Attorney General/Carson City
Carson City Clerk