

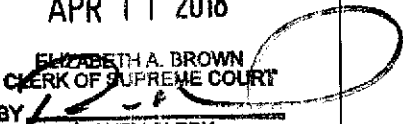
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHRISTOPHER LOWRY,
Appellant,
vs.
ISIDRO BACA, WARDEN,
Respondent.

No. 73513

FILED

APR 11 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Christopher Lowry 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.

Lowry argues the district court erred by denying his April 10, 2017, petition. Lowry first asserted the Nevada Department of Corrections (NDOC) improperly declined to apply his statutory credits toward his minimum term. However, this court has already considered and rejected this claim. *Lowry v. Warden*, Docket No. 71321 (Order of Affirmance, March 23, 2017). The doctrine of the law of the case prevents further consideration of this issue and “cannot be avoided by a more detailed and precisely focused argument.” *Hall v. State*, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975).

Second, Lowry claimed the NDOC applies credit toward another inmate’s minimum terms and the disparate treatment of that inmate as compared to him violated his equal protection rights. “The Equal Protection Clause of the Fourteenth Amendment mandates that all persons

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


similarly situated receive like treatment under the law.” *Gaines v. State*, 116 Nev. 359, 371, 998 P.2d 166, 173 (2000). When a classification does not affect fundamental rights, the “legislation at issue will be upheld provided the challenged classification is rationally related to a legitimate governmental interest.” *Id.*

Lowry did not demonstrate he and the other inmate were similarly situated. Further, Lowry did not demonstrate there was no rational basis for applying credits in a different manner based upon offenses and offense dates. *See id.*; *see also Glauner v. Miller*, 184 F.3d 1053, 1054 (9th Cir. 1999) (recognizing prisoners are not a suspect class and applying rational basis test).

Third, Lowry argues the district court erred by denying the petition despite the respondent’s failure to file an opposition to his petition within the deadline imposed by the district court. Lowry does not demonstrate the respondent’s failure to file a timely opposition entitled him to relief because the record before this court demonstrates Lowry’s petition lacked merit. Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

²We have considered Lowry’s August 1, 2017, motion for habeas corpus and February 27, 2018, motion for the appointment of counsel. We conclude no relief is warranted and deny the motions.

cc: Hon. James Wilson, District Judge
Christopher Lowry
Attorney General/Carson City
Attorney General/Las Vegas
Carson City Clerk