

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LESTER CANADA,  
Appellant,  
vs.  
ISIDRO BACA, WARDEN; THE STATE  
OF NEVADA DEPARTMENT OF  
CORRECTIONS; CONNIE S. BISBEE;  
AND NEVADA DEPARTMENT OF  
PAROLE AND PROBATION,  
Respondents.

No. 73078

**FILED**

MAY 15 2018

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

*ORDER OF AFFIRMANCE*

Lester Canada appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on December 10, 2015, and an amended petition filed on February 14, 2017.<sup>1</sup> First Judicial District Court, Carson City; James Todd Russell, Judge.

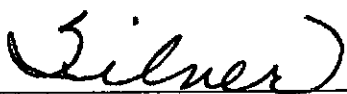
Canada claimed the Nevada Department of Corrections (NDOC) was improperly calculating his parole-eligibility date for two specific sentences. The district court denied his claim as moot. Canada conceded he had already been before the parole board on the sentences. Because Canada had already received the only remedy available to him—a hearing before the parole board—and no statutory authority or case law permits the retroactive grant of parole, *see Niergarth v. Warden*, 105 Nev. 26, 29, 768 P.2d 882, 884 (1989), we conclude the district court did not err by denying this claim as moot.


---

<sup>1</sup>This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).

To the extent Canada challenged how NDOC will be calculating his remaining sentences, his claim lacked merit. Where the district court orders sentences of different lengths to run concurrently, parole eligibility is "based on the sentence which requires the longest period before the prisoner is eligible for parole." NRS 213.1213(1). Although Canada correctly pointed out that NRS 213.1213 came into effect years after his convictions, the statute was enacted merely to lend statutory authority to existing NDOC practice. See Hearing on S.B. 320 Before the Senate Comm. on Judiciary, 67th Leg. (Nev., March 29, 1993). We therefore conclude the district court did not err by denying this claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. James Todd Russell, District Judge  
Lester Canada  
Attorney General/Carson City  
Carson City Clerk