

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTONIO MICHAEL BREAKMAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74400

FILED

SEP 26 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE


Antonio Michael Breakman appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.

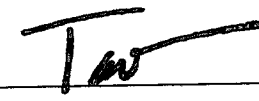
In his April 12, 2017, petition, Breakman claimed the Nevada Department of Corrections improperly declined to apply statutory credits toward his minimum terms. The district court denied the petition as moot because the record demonstrated Breakman already had received a parole hearing. The record before this court demonstrates Breakman expired his sentence for his primary offense in 2012, and had a parole hearing for his sentence for the deadly weapon enhancement in 2015. As a parole hearing would be the only relief available and no statutory authority or caselaw permits a retroactive grant of parole, *see Niergarth v. Warden*, 105 Nev. 26, 29, 768 P.2d 882, 884 (1989), Breakman's claim is moot. *See Johnson v. Dir., Nev. Dep't of Prisons*, 105 Nev. 314, 316, 774 P.2d 1047, 1049 (1989).


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

Therefore, we conclude the district court did not err in denying the petition,
and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Linda Marie Bell, Chief Judge
Antonio Michael Breakman
Attorney General/Carson City
Attorney General/Las Vegas
Clark County District Attorney
Eighth District Court Clerk