

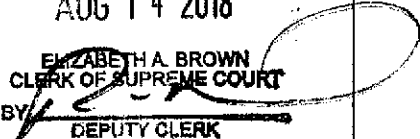
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAMES ROGERS, JR.,
Appellant,
vs.
ISIDRO BACA, WARDEN,
Respondent.

No. 73907

FILED

AUG 14 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

James Rogers, Jr., appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on March 7, 2017.¹ First Judicial District Court, Carson City; James E. Wilson, Judge.

Rogers claimed the Nevada Department of Corrections is failing to apply statutory credits to his parole eligibility pursuant to NRS 209.4465(7)(b). Rogers was sentenced to two consecutive terms of 5 to 20 years. He expired the first sentence in 2012, and he had a parole hearing on the second sentence in 2016. Since 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), Rogers' claim is moot. *See Johnson v. Dir., Nev. Dep't of Prisons*, 105 Nev. 314, 316, 774 P.2d 1047, 1049 (1989).


Moreover, Rogers' claim lacked merit. NRS 209.4465(7)(b) provides for the application of credits to parole eligibility "unless the

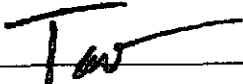
¹This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).


offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole." The version of NRS 200.366 pursuant to which Rogers was sentenced provided for a sentence of "20 years, with eligibility for parole beginning when a minimum of 5 years has been served." 1999 Nev. Stat., ch. 431, § 23, at 432. Accordingly, Rogers is not entitled to the application of credits to his parole eligibility.

For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. James E. Wilson, District Judge
James Rogers, Jr.
Attorney General/Carson City
Carson City Clerk