

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FERRILL JOSEPH VOLPICELLI,  
Appellant,  
vs.  
WARDEN OF LCC,  
Respondent.

No. 72972

FILED

OCT 11 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

Ferrill Joseph Volpicelli appeals from an order of the district court denying the postconviction petition for a writ of habeas corpus he filed on September 25, 2015, and a supplemental petition filed on January 13, 2016.<sup>1</sup> Eleventh Judicial District Court, Pershing County; Jim C. Shirley, Judge.

Volpicelli claims the district court erred by denying his challenges to the computation of time served. In his petition, Volpicelli alleged he was not provided with a credit history report and he was entitled to credits toward his life sentence because if it ever got reduced, he would be entitled to the credits. In his supplemental petition, Volpicelli claimed he was not given 30 credits on a different sentence he has already finished serving.

On appeal, Volpicelli incorporates his "reply to opposition to motion for production of credit history sentencing reports" in support of his

---

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

17-902/29

claims on appeal. Volpicelli provides no further argument attacking the district court's order. There is no "reply to opposition to motion for production of credit history sentencing reports" filed in the district court record for this matter. To the extent Volpicelli attempted to incorporate his opposition to the State's motion to dismiss, Volpicelli failed to demonstrate he was entitled to relief.


In his opposition to the motion to dismiss, Volpicelli admitted a postconviction petition for a writ of habeas corpus was not the proper vehicle to seek a credit history report. Further, Volpicelli admitted he has now received a copy of his credit history report. Finally, Volpicelli added a claim arguing there were discrepancies between two different credit history reports.

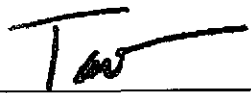
The district court denied Volpicelli's petition because he failed to state a claim challenging the computation of time served. Further, the district court denied Volpicelli's claim raised in the supplemental petition as moot because Volpicelli is no longer serving the sentence he is challenging. The district court's order did not address the new claim raised in Volpicelli's opposition.

We conclude substantial evidence supports the decision of the district court finding Volpicelli failed to raise a claim challenging the computation of time served, *see* NRS 34.724(1), and finding Volpicelli's claim regarding credits for a sentence he has already served was moot, *see Niergarth v. Warden*, 105 Nev. 26, 29, 768 P.2d 882, 884 (1989). Further, the district court did not abuse its discretion by declining to address the new claim raised in Volpicelli's opposition. *See* NRS 34.750(5); *State v. Powell*,

122 Nev. 751, 758, 138 P.3d 453, 457-58 (2006). Accordingly, we conclude the district court did not err by denying the petition, and we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Jim C. Shirley, District Judge  
Ferrill Joseph Volpicelli  
Attorney General/Carson City  
Pershing County Clerk