

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DEREK ANTHONY COSTANTINO,
Appellant,
vs.
RENEE BAKER, WARDEN,
Respondent.

No. 71776

FILED

OCT 11 2017

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

ORDER OF AFFIRMANCE

Derek Anthony Costantino appeals from an order of the district court dismissing a postconviction petition for a writ of habeas corpus.¹ Seventh Judicial District Court, White Pine County; Gary Fairman, Judge.


In his May 5, 2016, petition, Costantino claimed the Nevada Department of Corrections incorrectly calculated his credits, improperly delaying his parole hearing. The district court dismissed the petition as moot because the record demonstrated Costantino had been paroled. Because parole is an act of grace of the State, the district court properly concluded Costantino's parole rendered the challenge to the calculation of his sentence moot as the only remedy available would be to order the parole board to conduct a hearing. *See* NRS 213.10705; *see also* *Niergarth v. Warden*, 105 Nev. 26, 29, 768 P.2d 882, 884 (1989) (holding that no statutory

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).

authority or case law permits a retroactive grant of parole). Therefore, we conclude the district court did not err in dismissing the petition and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Gary Fairman, District Judge
Derek Anthony Costantino
Attorney General/Carson City
Attorney General/Ely
White Pine County Clerk