

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RONALD LEE ALLEN,
Appellant,
vs.
HAROLD WICKHAM, WARDEN,
Respondent.

No. 72468

FILED

OCT 12 2017

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

ORDER OF AFFIRMANCE

Ronald Lee Allen appeals from an order of the district court denying his August 30, 2016, postconviction petition for a writ of habeas corpus.¹ First Judicial District Court, Carson City; James E. Wilson, Judge.

Allen argues the Nevada Department of Corrections is erroneously failing to apply his credits earned pursuant to NRS 209.4465 to his parole eligibility, in violation of NRS 209.4465(7)(b). We disagree.

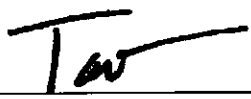
Allen expired his sentences as to counts 1 and 2 in 2015 and 2012, respectively. Because a parole hearing was the only relief available to him and no statutory authority or caselaw permits a retroactive grant of parole, *see Niergarth v. Warden*, 105 Nev. 26, 29, 768 P.2d 882, 884 (1989), Allen's claim regarding counts 1 and 2 is moot, *see Johnson v. Dir., Nev. Dep't. of Prisons*, 105 Nev. 314, 316, 774 P.2d 1047, 1049 (1989), and we therefore conclude the district court did not err in denying Allen's claims as to these counts.

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

Allen committed the crime underlying count 3 on July 2, 2007. At that time, NRS 209.4465(7) began, "Except as otherwise provided in subsection[] 8," and NRS 209.4465(8)(d) specifically excludes offenders convicted of category B felonies from having statutory credits deducted from their minimum sentences. Allen was convicted and sentenced pursuant to NRS 205.060 for a category B felony. Accordingly, Allen is not entitled to the application of credits to his parole eligibility for this court, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. James E. Wilson, District Judge
Ronald Lee Allen
Attorney General/Carson City
Carson City Clerk