

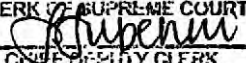
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ALBERT O'NEAL SCOTT,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN,
Respondent.

No. 78936-COA

FILED

MAY 26 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Albert O'Neal Scott appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on November 19, 2018. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

Scott claimed that, pursuant to NRS 209.443 and *Demosthenes v. Williams*, 97 Nev. 611, 637 P.2d 1203 (1981), he was entitled to the application of statutory credits to his maximum sentence and requested to be discharged from the custody of the Nevada Department of Corrections (NDOC). The district court found that the only sentence Scott has not discharged is a sentence of life in prison with the possibility of parole, he has appeared before the parole board on this sentence, and NDOC is properly recording his statutory credits for this sentence. These findings are supported by the record on appeal.

"Because appellant was sentenced to a term of life in prison, there is no date from which the credit can be deducted." *Hunt v. Warden*, 111 Nev. 1284, 1285, 903 P.2d 826, 827 (1995). Accordingly, NDOC is not required to apply statutory credits to Scott's maximum sentence. *Cf. id.* (interpreting a statute with language substantively identical to that of NRS


209.443). *Demosthenes* addresses the application of credits only to minimum sentences. *See Demosthenes*, 97 Nev. at 615, 637 P.2d at 1205 (“[T]he good time credit provisions of NRS 209.443 apply to the parole eligibility of all inmates entitled to eventual parole. . . .”). To the extent Scott was challenging the computation of his minimum sentences, his claim was moot because he had either already expired or been before the parole board on his sentences. *See Williams v. State Dep’t of Corr.*, 133 Nev. 594, 600 n.7, 402 P.3d 1260, 1265 n.7 (2017). We therefore conclude the district court did not err by denying Scott’s petition.

We also conclude the district court did not abuse its discretion by denying Scott’s request for the appointment of postconviction counsel. NRS 34.750(1) provides for the discretionary appointment of postconviction counsel if the petitioner is indigent. Scott made only a bare request for the appointment of counsel, and his claims were patently without merit based on long-established case law.

For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Tierra Danielle Jones, District Judge
Albert O'Neal Scott
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk