

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

EDDIE CLAY, A/K/A EDWARD
BERNARD CLAY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 82206-COA

FILED

JUN 17 2021

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

ORDER OF AFFIRMANCE

Eddie Clay appeals from an order of the district court denying a petition for a writ of habeas corpus. First Judicial District Court, Carson City; James Todd Russell, Judge.

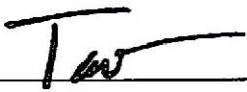
Clay argues the district court erred by denying his July 10, 2020, petition. In his petition, Clay asserted he was punished twice for the same parole violation in contravention of his right against double jeopardy. The Double Jeopardy Clause bars multiple criminal punishments for the same offense. *Moor v. Palmer*, 603 F.3d 658, 660 (9th Cir. 2010). However, “[p]arole revocation is not a criminal penalty for violating the terms of parole,” but rather “is simply a continuation of the punishment for the original crime.” *Id.* The Double Jeopardy Clause is not implicated even if the parolee is subjected to more than one revocation based on the same underlying act. *United States v. Clark*, 984 F.2d 319, 320 (9th Cir. 1993).


Because revocation of parole did not constitute a separate criminal punishment, Clay failed to demonstrate the parole revocation

proceedings in a double jeopardy violation. Therefore, Clay is not entitled to relief, and we conclude the district court did not err by denying his petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. James Todd Russell, District Judge
Eddie Clay
Attorney General/Carson City
Carson City Clerk

¹Clay appears to argue on appeal that the Nevada Department of Corrections has held him in custody longer than was permissible pursuant to his original sentence. However, Clay did not raise this claim in his petition, and we decline to consider it in the first instance on appeal. See *McNelton v. State*, 115 Nev. 396, 415-16, 990 P.2d 1263, 1275-76 (1999).