

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

COREY JOHNSON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 82597-COA

**FILED**

AUG 30 2021

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Corey Johnson appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on September 21, 2020. Eighth Judicial District Court, Clark County; Joseph Hardy, Jr., Judge.

Johnson first contended that the Nevada Department of Corrections (NDOC) improperly calculated his sentence, because his expiration date was altered after his parole revocation hearing. Johnson contended that the Nevada Board of Parole Commissioners (Board) did not revoke any of his statutory credits and his expiration date therefore should not have moved following the revocation hearing.

The district court found Johnson escaped for periods of time while serving parole. The record supports the district court's finding. Accordingly, NDOC properly declined to apply credit toward Johnson's sentence for the time he escaped from parole supervision. See NRS 213.15185(1) (defining when a prisoner is deemed to have escaped); NRS 213.15185(4) ("[T]he time a person is an escaped prisoner is not time served on his or her term of imprisonment."). Therefore, we conclude Johnson was not entitled to relief based upon this claim.

Johnson next asserted that his due process rights were violated during the parole-revocation proceedings because the preliminary inquiry hearing was improperly conducted only after he was taken into custody. Johnson asserted he was therefore not given advance notice of the preliminary inquiry hearing, he was unable to obtain witnesses or evidence to present at the hearing, and he was unable to obtain counsel for the hearing.

Due process does not require that a preliminary inquiry hearing occur prior to a parolee's arrest for a parole violation. Rather, it requires that the hearing occur after a parolee's arrest "to determine whether there is probable cause or reasonable ground to believe that the arrested parolee has committed acts that would constitute a violation of parole conditions." *Morrissey v. Brewer*, 408 U.S. 471, 485 (1972). "[T]he parolee should be given notice that the hearing will take place and that its purpose is to determine whether there is probable cause to believe he has committed a parole violation." *Id.* at 486-87. At the preliminary inquiry hearing, "the parolee may appear and speak in his own behalf; he may bring letters, documents, or individuals who can give relevant information to the hearing officer." *Id.*

Johnson received advanced written notice of the preliminary inquiry hearing. The written notice informed Johnson of the alleged violations of his parole conditions. Johnson indicated he desired to have a preliminary inquiry hearing but did not indicate that he would retain counsel to represent him for that hearing. Johnson also named witnesses he wished to present at the hearing. Based on the record, Johnson was appropriately provided with advance written notice of the preliminary inquiry hearing and the opportunity to retain counsel or obtain witnesses

for the hearing. Accordingly, Johnson did not demonstrate that he suffered from a violation of his due process rights. Therefore, we conclude Johnson was not entitled to relief based upon this claim.

Johnson next claimed that the Board erred by failing to determine the time period that he absconded from parole supervision. The record demonstrated that the Board found Johnson absconded from supervision for more than 60 days. Accordingly, we conclude Johnson failed to demonstrate he was entitled to relief based upon this claim.

Finally, Johnson argues on appeal that the district court erred by denying the petition without first conducting an evidentiary hearing. To warrant an evidentiary hearing, a petitioner must raise claims supported by specific allegations that are not belied by the record and, if true, would entitle him to relief. *Cf. Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). The district court decided Johnson's claims did not meet that standard, and we conclude the district court's decision in that regard was proper. Therefore, we conclude the district court did not err by denying the petition without conducting an evidentiary hearing. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Joseph Hardy, Jr., District Judge  
Corey B. Johnson  
Attorney General/Carson City  
Attorney General/Las Vegas  
Eighth District Court Clerk