

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

REGINALD CLARENCE HOWARD,
Appellant,
vs.
THE STATE OF NEVADA; AND THE
STATE OF NEVADA BOARD OF
PAROLE COMMISSIONERS,
Respondents.

No. 87843-COA

FILED

AUG 11 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Howard appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on August 8, 2023. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.


Howard argues the district court erred by denying his claim that the Nevada Board of Parole Commissioners (Parole Board) failed to hold a parole revocation hearing within 60 days after Howard was returned to the custody of the Nevada Department of Corrections (NDOC) and that, consequently, he was not given proper credit toward his parole. Howard violated his parole by committing new crimes. The Nevada Supreme Court has concluded that if a parolee is returned to the custody of NDOC before the adjudication of new charges, a revocation hearing must be held within 60 days of returning to custody. *See Matter of Smith*, 138 Nev. 133, 137, 506 P.3d 325, 329 (2022); *see also* NRS 213.1517(3), (4).

Here, Howard was returned to the custody of NDOC on July 16, 2014, but his parole revocation hearing was not held until July 28, 2015. Thus, it appears that Howard's right to a parole revocation hearing within 60 days of returning to NDOC's custody was violated. However, the district

court determined that Howard had already received a new parole hearing in 2018, and thus was not entitled to relief. The record supports this determination. The remedy for an untimely parole hearing is to have a new parole hearing. See *Niergarth v. Warden*, 105 Nev. 26, 29, 768 P.2d 882, 884 (1989) (recognizing that no authority permits the Parole Board to grant a retroactive parole). Because Howard had a new parole hearing in 2018, we conclude the district court did not err by finding that Howard was not entitled to relief. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Michelle Leavitt, District Judge
Reginald Clarence Howard
Attorney General/Carson City
Attorney General/Las Vegas
Clark County District Attorney
Eighth District Court Clerk