

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRANDON DEMARLO MONGHUR,
Appellant,
vs.
THE STATE OF NEVADA; AND
NEVADA PAROLE BOARD
COMMISSIONERS,
Respondents.

No. 88768-COA

FILED
MAR 11 2025
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Brandon Demarlo Monghur appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on February 3, 2023. Eighth Judicial District Court, Clark County; Erika D. Ballou, Judge.

In his petition, Monghur claimed the Nevada Department of Corrections (NDOC) twice failed to hold parole revocation hearings within 60 days of his return to NDOC custody. Monghur acknowledged he was arrested for new charges while out on parole. However, he argued that the intake warrants were issued several days before he was returned to NDOC's physical custody and that he was being held pursuant to the intake warrants in the county jail; thus, he claimed he was in the constructive custody of NDOC. 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).

The district court made the following factual findings. Monghur was arrested for parole violations and on new criminal charges in December of 2021. Monghur was returned to the custody of NDOC on January 14, 2022. Monghur's parole revocation hearing was held on March 1, 2022, which was within 60 days of Monghur being returned to NDOC custody. When Monghur was re-released on parole in March of 2022, he absconded. He was arrested for parole violations and on new criminal charges in August of 2022. After his new criminal charges were resolved on September 15, 2022, Monghur was returned to the custody of NDOC on September 19, 2022. His parole revocation hearing was held on November 8, 2022, which was within 60 days of Monghur being returned to NDOC custody.

The record supports the findings of the district court that Monghur had his parole hearings within 60 days of being returned to the custody of NDOC. And Monghur failed to demonstrate he was in the constructive custody of NDOC before being returned to NDOC's physical

custody.¹ Therefore we conclude that the district court did not err by denying the petition, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Erika D. Ballou, District Judge
Brandon Demarlo Monghur
Attorney General/Carson City
Clark County District Attorney
Attorney General/Las Vegas
Eighth District Court Clerk

¹Monghur admitted his new criminal charges for the August arrest were resolved on September 15, 2022. Monghur did not allege or provide documentation regarding when the criminal charges for his December arrest were resolved.