

IN THE SUPREME COURT OF THE STATE OF NEVADA


DEREK A. COSTANTINO,  
Appellant,  
vs.  
WARDEN, HIGH DESERT STATE  
PRISON, GEORGE GRIGAS,  
Respondent.

No. 43548

FILED

NOV 24 2004

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY   
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying appellant Derek Costantino's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge.

On May 7, 2002, Costantino filed a proper person post-conviction petition for a writ of habeas corpus in the district court. Costantino's petition raised claims concerning a prison disciplinary hearing in which he was found guilty of MJ 21 (theft). On June 17, 2004, the district court dismissed Costantino's petition. This appeal followed.

According to the documents before this court, as a result of the instant offense Costantino received 90 days of disciplinary segregation and was ordered to pay restitution from his inmate account.

We conclude that the district court did not err in dismissing Costantino's petition. This court has "repeatedly held that a petition for [a] writ of habeas corpus may challenge the validity of current confinement, but not the conditions thereof."<sup>1</sup> Although Costantino


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<sup>1</sup>Bowen v. Warden, 100 Nev. 489, 490, 686 P.2d 250, 250 (1984); see also Sandin v. Conner, 515 U.S. 472 (1995) (holding that liberty interests *continued on next page . . .*


received a referral for possible loss of statutory good time credits, the record does not reveal that any credits were forfeited. Consequently, Costantino's challenges are not cognizable in a petition for a writ of habeas corpus.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Costantino is not entitled to relief and that briefing and oral argument are unwarranted.<sup>2</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>3</sup>

  
\_\_\_\_\_, J.  
Becker

  
\_\_\_\_\_, J.  
Agosti

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

cc: Hon. Stewart L. Bell, District Judge  
Derek A. Costantino  
Attorney General Brian Sandoval/Carson City  
Clark County Clerk

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*... continued*

protected by the Due Process Clause will generally be limited to freedom from restraint which imposes an atypical and significant hardship on the inmate in relation to ordinary incidents of prison life).

<sup>2</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

<sup>3</sup>We have reviewed all documents that Costantino has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted.