IN THE SUPREME COURT OF THE STATE OF NEVADA

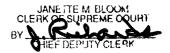
DEREK A. COSTANTINO, Appellant,

vs.

WARDEN, HIGH DESERT STATE PRISON, GEORGE GRIGAS, Respondent. No. 43548

NOV 2 4 2004

ORDER OF AFFIRMANCE



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." Although Costantino

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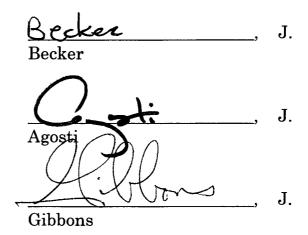
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¹Bowen v. Warden, 100 Nev. 489, 490, 686 P.2d 250, 250 (1984); see also Sandin v. Conner, 515 U.S. 472 (1995) (holding that liberty interests continued on next page . . .

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.² Accordingly, we

ORDER the judgment of the district court AFFIRMED.3



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

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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).

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

³We 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.