

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID OWENS HOOPER,
Appellant,
vs.
WARDEN, ELY STATE PRISON, E.K.
MCDANIEL,
Respondent.

No. 43990

FILED

NOV 15 2004

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying appellant David Owens Hooper's post-conviction petition for a writ of habeas corpus. Seventh Judicial District Court, White Pine County; Steve L. Dobrescu, Judge.

On June 18, 2004, Hooper filed a proper person post-conviction petition for a writ of habeas corpus in the district court. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent Hooper or to conduct an evidentiary hearing. On September 1, 2004, the district court dismissed appellant's petition. This appeal followed.

In his petition, Hooper alleged that his segregation from the general prison population was unlawful. We conclude that the district court did not err in dismissing Hooper's habeas corpus petition. "We have repeatedly held that a petition for writ of habeas corpus may challenge the validity of current confinement, but not the conditions thereof."¹ Further,

¹Bowen v. Warden, 100 Nev. 489, 490, 686 P.2d 250, 250 (1984); see also Sandin v. Conner, 515 U.S. 472, 486 (1995) (holding that liberty interests protected by the Due Process Clause will generally be limited to

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the imposition of more restrictive confinement speaks only to the conditions of confinement and may not be raised in a habeas corpus petition.² Because Hooper challenged the conditions of his confinement, his claim was 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 Hooper is not entitled to relief and that briefing and oral argument are unwarranted.³ Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Becker, J.
Becker

Agosti, J.
Agosti

Gibbons, J.
Gibbons

cc: Hon. Steve L. Dobrescu, District Judge
David Owens Hooper
Attorney General Brian Sandoval/Carson City
White Pine County Clerk

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freedom from restraint which imposes an atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life).

²See Bowen, 100 Nev. at 490, 686 P.2d at 250.

³See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).