

IN THE SUPREME COURT OF THE STATE OF NEVADA

DARWIN RAY ELLISON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 44039

FILED

JAN 25 2005

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 a post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; John S. McGroarty, Judge.

On June 21, 2001, the district court convicted appellant, pursuant to a guilty plea, of one count of driving and/or being in actual physical control while under the influence of intoxicating liquor causing the death of another person. The district court sentenced appellant to serve a term of sixty-six to two hundred and forty months in the Nevada State Prison. No direct appeal was taken.

On April 8, 2004, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State filed a motion to dismiss the petition. Appellant filed a response to which the State filed a reply. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to conduct an evidentiary hearing. On October 28, 2004, the district court denied appellant's petition. This appeal followed.


In his petition, appellant claimed that his incarceration at the High Desert State Prison violated a statutory requirement that he be segregated from violent offenders. Appellant claimed that his


incarceration violated equal protection. Appellant requested that he be transferred to a facility designed to house DUI offenders separate from violent offenders.

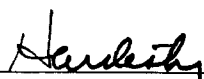
We conclude that the district court did not err in denying appellant's petition. "We have repeatedly held that a petition for a writ of habeas corpus may challenge the validity of current confinement, but not the conditions thereof."<sup>1</sup> Because appellant challenged the conditions of his confinement, appellant's 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 appellant 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.

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

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Hardesty

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<sup>1</sup>Bowen v. Warden, 100 Nev. 489, 686 P.2d 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 freedom from restraint which imposes an atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life).

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

cc: Hon. John S. McGroarty, District Judge  
Darwin Ray Ellison  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk