IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY ALLEN,
Appellant,
vs.
NEVADA DEPARTMENT OF CORRECTIONS; AND WARDEN, WARM SPRINGS CORRECTIONAL CENTER, STEPHANIE HUMPHREY,
Respondents.

No. 45016

FILED

JUL 0 5 2005

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant Anthony Allen's post-conviction petition for a writ of habeas corpus. First Judicial District Court, Carson City; Michael R. Griffin, Judge.

On January 25, 2005, Allen filed a proper person post-conviction petition for a writ of habeas corpus in the district court. Allen filed an amended petition on February 2, 2005. In his petition, Allen raised claims concerning a prison disciplinary hearing in which he was found guilty of MJ-1 (arson). As a result of the disciplinary hearing, Allen received 120 days of disciplinary segregation, an institutional transfer and forfeited 119 days of statutory good time credit.[1] The State opposed

[1]Allen filed an institutional appeal, and the warden reduced his disciplinary segregation to 60 days.

Allen's petition. On March 23, 2005, the district court denied Allen's petition. This appeal followed.[2]

When a prison disciplinary hearing results in the loss of statutory good time credits, the United States Supreme Court has held that minimal due process rights entitle a prisoner to: (1) advance written notice of the charges; (2) a qualified opportunity to call witnesses and present evidence, and (3) a written statement by the fact finders of the evidence relied upon.[3] The requirements of due process are further met if some evidence supports the decision by the prison disciplinary committee.[4]

First, Allen claimed that the notice of charges was insufficient because it was based on opinion and assumption. The notice of charges adequately set forth the incident, thus permitting Allen an adequate opportunity to present a defense to the charges. Allen failed to establish that the notice of charges was in retaliation for any constitutionally protected activity. Therefore, we conclude that the district court did not err in denying this claim.

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[2]To the extent that Allen challenges his placement in disciplinary segregation and his institutional transfer, we note that such challenges are not cognizable in a petition for a writ of habeas corpus. See Brown v. Warden, 100 Nev. 489, 490, 686 P.2d 250, 250 (1984) (providing that 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").

[3]Wolff v. McDonnell, 418 U.S. 539, 563-69 (1974).

[4]Superintendent v. Hill, 472 U.S. 445, 455 (1985); see also Nev. Code of Penal Discipline § 707.04 (1.3.6.1) (providing that it is only necessary that the disciplinary committee's finding of guilt be based upon some evidence, regardless of the amount).

Second, Allen claimed that the committee chairman was impartial because he participated in the investigation of the incident. The district court found that there is no "due process requirement under Wolff for an impartial committee hearing" and "the committee hearing was not biased as there is no evidence or reference that [the hearing officer] was involved with the investigation of this matter." Although the district court relied on the wrong reasons for denying this claim, we nonetheless affirm the denial because the district court reached the correct result.[5]

The United States Supreme Court has recognized that minimal due process requires an impartial decision maker.[6] A prison disciplinary hearing that presented "a hazard of arbitrary decisionmaking" would violate due process.[7] The record on appeal reveals that the committee chairman was not the charging employee and only had minimal involvement in the investigation of this matter. Allen failed to demonstrate that this minimal involvement presented a hazard of arbitrary decisionmaking.

Third, Allen claimed that the finding of guilt was based on no evidence. The record belies this claim.[8] The prison disciplinary committee was presented with the notice of charges, Allen's statement and the

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[5]See Hotel Riviera, Inc. v. Torres, 97 Nev. 399, 403, 632 P.2d 1155, 1158 (1981) (holding that if the result below is correct, it will not be disturbed on appeal).

[6]Wolff, 418 U.S. at 570-71; see also Edwards v. Balisok, 520 U.S. 641, 647 (1997) (holding that "the decision of a biased hearing officer who dishonestly suppresses evidence" could not stand).

[7]Wolff, 418 U.S. at 571.

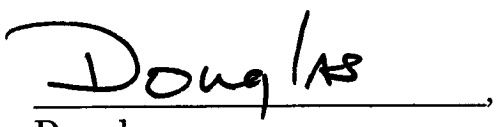
[8]See Hargrove v. State, 100 Nev. 498, 503, 686 P.2d 222, 225 (1984).

testimony of two witnesses. Some evidence was presented to support the finding of guilt, and therefore, we conclude that the district court did not err in denying this claim.

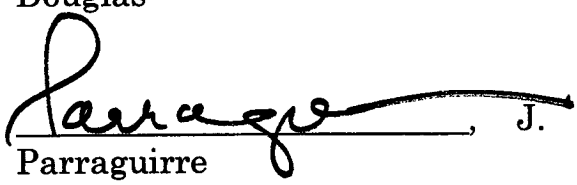
Having reviewed the record on appeal and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.[9] Accordingly, we

ORDER the judgment of the district court AFFIRMED.[10]

_____, J.
Maupin



_____, J.
Douglas



_____, J.
Parraguirre

cc: Hon. Michael R. Griffin, District Judge
Anthony Allen
Attorney General Brian Sandoval/Carson City
Carson City Clerk

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[9]See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

[10]We have reviewed all documents that Allen 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. To the extent that Allen has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.