

IN THE SUPREME COURT OF THE STATE OF NEVADA

PHILLIP JACKSON LYONS,
Appellant,
vs.
WARDEN, LOVELOCK
CORRECTIONAL CENTER, CRAIG
FARWELL,
Respondent.

No. 46520

FILED

APR 04 2006

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 a "First Amendment Writ." Eighth Judicial District Court, Clark County; Lee A. Gates, Judge.

On August 18, 2004, appellant filed a document labeled, "First Amendment Writ" in the district court in his criminal case. The district court appointed counsel, and on September 27, 2005, counsel filed a supplement to the writ. On December 7, 2005, the district court denied the writ. This appeal followed.

In his petition, appellant claimed that officials at High Desert State Prison retaliated against him for submitting a letter requesting review of prison conditions at High Desert State Prison. Appellant claimed that as a result of his letter he was investigated, placed in administrative segregation, his cell was searched and papers and effects seized, he was transferred to another institution, and his classification was detrimentally changed. Appellant claimed that these actions violated his First Amendment right and his right to due process. Appellant's counsel argued that his writ should be treated as a petition for a writ of


mandamus, and appellant should be considered a state employee, as he was lead tutor at High Desert State Prison, with whistleblower protection.

Based upon our review of the record on appeal, we conclude that the district court did not err in denying relief. Appellant chose the improper vehicle in which to raise his claims. NRS 34.170 provides that a writ of mandamus will issue "where there is not a plain, speedy and adequate remedy in the ordinary course of law." Appellant has an adequate remedy in the ordinary course of law by way of a 42 USC § 1983 civil rights petition. Therefore, we affirm the order of the district court.

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.¹ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Douglas


_____, J.
Becker


_____, J.
Parraguirre

¹See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

cc: Hon. Lee A. Gates, District Judge
Phillip Jackson Lyons
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk