

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT BERNARD GRUTGEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 47535

FILED

DEC 05 2006

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

ORDER DISMISSING APPEAL AND DIRECTING THE CLERK OF THE
DISTRICT COURT TO TRANSFER HABEAS CORPUS PETITION

This is a proper person appeal from an order of the district court dismissing appellant's February 16, 2006 post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

On February 16, 2006, appellant filed a post-conviction petition for a writ of habeas corpus in the district court challenging the sanctions imposed in as many as five separate prison disciplinary hearings. On May 17, 2006, the district court dismissed the petition on the ground that appellant had not raised any cognizable grounds in his petition. This appeal followed.

Although appellant's placement in disciplinary segregation and loss of any privileges would not be cognizable in a habeas corpus petition, appellant may be able to file a habeas corpus petition challenging prison disciplinary hearings that resulted in the forfeiture of statutory good time credits.¹ Because it appears that appellant may have forfeited

¹See Bowen 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
continued on next page . . .

credits, this court cannot affirm the order of the district court dismissing the petition.²

In reviewing the documents before this court, it appears that appellant filed his petition in the wrong district court. Appellant filed his petition, ostensibly challenging the forfeiture of statutory good time credits, in the Second Judicial District Court, the district court in which he was convicted. However, appellant's statement of custody in the petition and documents relating to his claims indicate that appellant was incarcerated at the Southern Desert Correctional Center in Clark County, Nevada—Clark County falls within the Eighth Judicial District Court. A petition that challenges the forfeiture of credits resulting from a prison disciplinary hearing must be filed with the clerk of the district court for the county in which the petitioner was incarcerated at the time the petition is filed—in this case, the Eighth Judicial District Court.³ Because appellant's petition was not filed in the correct district court, we dismiss this appeal. We further direct the Clerk of the Second Judicial District Court to transfer to the clerk of the Eighth Judicial District Court the

... continued


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).


²On the face of his petition, appellant failed to specifically identify the prison disciplinary hearings that resulted in a forfeiture of credits and the amount of credits forfeited at each hearing, however, it appears from a review of appellant's exhibits that he may have forfeited credits in the hearings conducted March 2, 2005, May 17, 2005, and June 8, 2005.

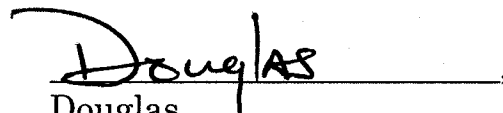
³See NRS 34.724(2)(c); NRS 34.738(1).

February 16, 2006 habeas corpus petition, points and authorities, motion for order of indigent copy work and ex parte motion for appointment of counsel and request for evidentiary hearing. The petition and accompanying documents shall be treated as having been filed on February 16, 2006.⁴

It is so ORDERED.


_____, J.
Gibbons


_____, J.
Maupin


_____, J.
Douglas

cc: Hon. Janet J. Berry, District Judge
Robert Bernard Grutgen
Attorney General George Chanos/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk
Clark County Clerk

⁴See NRS 34.738(2)(a).