


IN THE SUPREME COURT OF THE STATE OF NEVADA

HENRY LEE FOGGY,
Appellant,
vs.
DIRECTOR, NEVADA DEPARTMENT
OF CORRECTIONS, GLEN WHORTON,
Respondent.

No. 49005

FILED

AUG 14 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus. First Judicial District Court, Carson City; William A. Maddox, Judge.

On February 14, 2006, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court, challenging a prison disciplinary hearing in which he was found guilty of MJ 44 (failure to submit to drug and/or alcohol screening) and G 1 (disobedience of an order from any correctional employee) and sanctioned to 75 days of austere housing. On February 2, 2007, the district court denied appellant's petition. This appeal followed.

In his petition, appellant claimed that the prison disciplinary hearing should have been conducted in front of three persons instead of a single disciplinary hearing officer. Based upon our review of the record on

07-17948

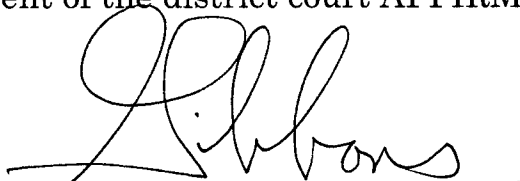
appeal, we conclude that the district court did not err in denying appellant's petition. This court has "repeatedly held that a petition for [a] writ of habeas corpus may challenge the validity of current confinement, but not the conditions thereof."¹ Although the summary of the disciplinary hearing indicates that appellant received a referral for possible loss of statutory good time credits, the record does not reveal that any credits were actually forfeited as a result of the prison disciplinary action. Consequently, appellant's challenge was not cognizable in a petition for a writ of habeas corpus. Even assuming that appellant had lost credits, his challenge to the make-up of the prison disciplinary committee was without merit as prison regulations allow for a hearing to be conducted in front of a single, qualified disciplinary hearing officer.² Therefore, we affirm the order of the district court.

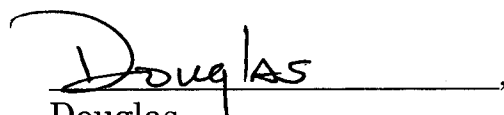
¹Bowen v. Warden, 100 Nev. 489, 490, 686 P.2d 250, 250 (1984); see also Sandin v. Conner, 515 U.S. 472, 484 (1995) (holding that liberty interests protected by the Due Process Clause will generally be limited to freedom from restraint which imposes an atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life).

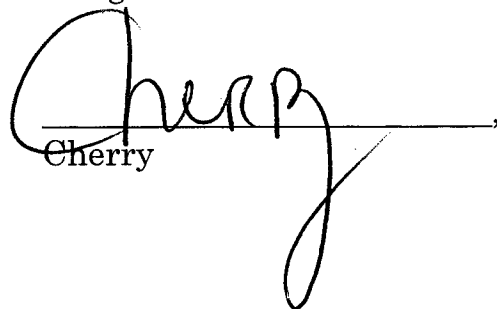
²See NDOC Ad. Reg. 707.04. 1.1.8, 1.3.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Downing is not entitled to relief and that briefing and oral argument are unwarranted.³ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. William A. Maddox, District Judge
Henry Lee Foggy
Attorney General Catherine Cortez Masto/Carson City
Carson City Clerk

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