

IN THE SUPREME COURT OF THE STATE OF NEVADA

KEVIN LYNN FERNANDEZ,  
Appellant,  
vs.  
DIRECTOR, NEVADA DEPARTMENT  
OF CORRECTIONS, GLEN WHORTON  
AND WARDEN, LOVELOCK  
CORRECTIONAL CENTER, JACK  
PALMER,  
Respondents.

No. 49452

**FILED**

JAN 23 2008

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying an application for a writ of certiorari. Sixth Judicial District Court, Pershing County; Richard Wagner, Judge.

On January 24, 2007, appellant filed a proper person application for a writ of certiorari in the district court. On April 16, 2007, the district court denied the application. This appeal followed.

In his application for a writ of certiorari, appellant challenged prison disciplinary hearings that resulted in 15 days of disciplinary segregation and a \$25 restitution order. Appellant challenged the finding of guilt.

An application for a writ of certiorari shall be granted "in all cases when an inferior tribunal, board or officer, exercising judicial functions, has exceeded the jurisdiction of such tribunal, board or officer and there is no appeal, nor, in the judgment of the court, any plain, speedy

and adequate remedy.”<sup>1</sup> A writ of certiorari is an extraordinary remedy and the decision to entertain a petition for a writ of certiorari lies within the sound discretion of the court.<sup>2</sup>

Based upon our review of the record on appeal, we conclude that the district court did not abuse its discretion in denying appellant’s application. Appellant had a plain, speedy and adequate remedy to challenge the prison disciplinary proceedings; an inmate who forfeits credits as a result of a prison disciplinary hearing may challenge the proceedings in a petition for a writ of habeas corpus filed in the district court whereas an inmate who did not lose credits may raise certain challenges to prison disciplinary proceedings in a civil rights action.<sup>3</sup> Therefore, we affirm the order of the district court denying the application.

Having reviewed the record on appeal and for the reasons set forth above, we conclude that appellant is not entitled to relief and that

---

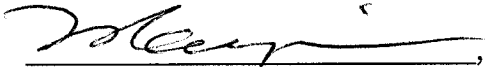
<sup>1</sup>See NRS 34.020(2).

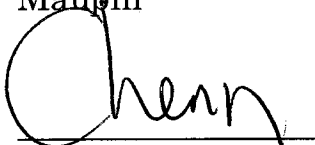
<sup>2</sup>Zamarripa v. District Court, 103 Nev. 638, 640, 747 P.2d 1386, 1387 (1987).


<sup>3</sup>See NRS 34.724(2)(c); see also 42 U.S.C. § 1983 (1996).

briefing and oral argument are unwarranted.<sup>4</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>5</sup>

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

cc: Hon. Richard Wagner, District Judge  
Kevin Lynn Fernandez  
Attorney General Catherine Cortez Masto/Carson City  
Pershing County Clerk

---

<sup>4</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

<sup>5</sup>We have reviewed all documents that appellant 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 appellant 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. We further specifically deny appellant's emergency motion for injunction pending appeal.