

IN THE SUPREME COURT OF THE STATE OF NEVADA

CALVIN O'NEIL JACKSON,
Appellant,
vs.
WARDEN, LOVELOCK
CORRECTIONAL CENTER, JACK
PALMER,
Respondent.

No. 50344

FILED

FEB 11 2008

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus. Sixth Judicial District Court, Pershing County; Richard Wagner, Judge.

On April 6, 2006, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court challenging a prison disciplinary proceeding resulting in the forfeiture of 29 good time credits and a two-level classification reduction. The State opposed the petition. On April 18, 2007, the district court denied appellant's petition.¹ This appeal followed.²

¹The district court's order was titled "Proposed Order." On October 10, 2007, the district court amended the title of the April 18, 2007, order.

²To the extent that appellant challenged his classification reduction, appellant's challenge was not cognizable in a petition for a writ of habeas corpus as it was a challenge to the conditions of confinement. See 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 interests protected by the Due Process Clause will generally be limited to freedom from
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“Prison disciplinary proceedings are not part of a criminal prosecution, and the full panoply of rights due a defendant in such proceedings does not apply.”³ The United States Supreme Court has held that minimal due process in a prison disciplinary hearing requires: (1) advance written notice of the charges, (2) a written statement by the fact finders of the evidence relied upon and the reasons for the disciplinary action, and (3) a qualified right to call witnesses and present evidence.⁴

In his petition, appellant contended that the findings of the disciplinary committee were not supported by sufficient evidence. The requirements of due process are met if some evidence supports the decision by the prison disciplinary committee.⁵ The disciplinary committee concluded that appellant violated MJ-30 (sexually stimulating activities). In reaching that conclusion, the committee relied on CCST Crone’s written report and testimony, in which she identified appellant as the inmate she witnessed masturbating in the unit activity room.⁶ Thus,

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restraint which imposes an atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life).

³Wolff v. McDonnell, 418 U.S. 539, 556 (1974).

⁴Id. at 563-67.


⁵Superintendent v. Hill, 472 U.S. 445, 455 (1985); see also N.D.O.C. A.R. § 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).

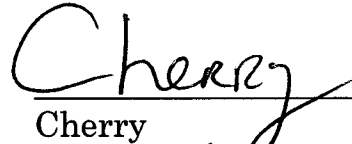
⁶The summary of the disciplinary hearing also indicated that the hearing officer considered testimony from inmate witnesses that appellant
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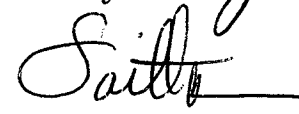
some evidence supported the finding. Therefore, the district court did not err in denying this claim.

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.⁷ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Maupin


_____, J.
Cherry


_____, J.
Saitta

cc: Hon. Richard Wagner, District Judge
Calvin O'Neil Jackson
Attorney General Catherine Cortez Masto/Carson City
Pershing County Clerk

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called to establish an alibi at the time of the incident. The hearing officer specifically found that the facts as testified to by the inmates permitted appellant to be present in the activity room at the time of the incident.

⁷See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).