IN THE SUPREME COURT OF THE STATE OF NEVADA

DANIEL MARTINEZ,
Appellant,
vs.
WARDEN, LOVELOCK CORRECTIONAL CENTER, JACK PALMER,
Respondent.

No. 52411

FILED

MAY 01 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

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

On January 4, 2008, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State filed a motion to dismiss the petition. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to conduct an evidentiary hearing. On July 24, 2008, appellant filed a motion to amend his petition. On August 27, 2008, the district court dismissed appellant's petition. This appeal followed.

In his petition, appellant argued that his placement in solitary confinement and revocation of his parole following an altercation between several of his cellmates deprived him of his right to due process. To the extent that appellant challenged his placement in solitary confinement,

this claim is not cognizable in a habeas corpus petition. Generally, "a petition for writ of habeas corpus may challenge the validity of current confinement, but not the conditions thereof." See Bowen 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" or action affecting the duration of a prisoner's sentence) (internal citations omitted). Placement in punitive segregation is a challenge to the conditions of confinement, and thus, this challenge may not be raised in a petition for habeas corpus.[1] Bowen, 100 Nev. at 490, 686 P.2d at 250. Therefore, the district court did not err in dismissing this claim.

To the extent that appellant challenged his revocation of parole, we conclude that appellant failed to name or serve the appropriate responding party. Appellant filed his claim against the warden of the Lovelock Correctional Center. The warden has no authority to grant,

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[1]While the placement of an inmate in punitive segregation may not be raised in a petition for a writ of habeas corpus, the forfeiture of statutory good time credits may be reviewed as the forfeiture of such credits may affect the length of time served. See Sandin, 515 U.S. at 477-78. However, to the extent appellant argued that his placement in administrative segregation deprived him of the ability to earn work time credits, we note that appellant did not actually forfeit any earned credits and the earning of work time credits was mere speculation. Therefore, the district court did not err in dismissing this claim.

deny, rescind, or revoke parole. See NRS 209.161. Rather, such authority lies with the Board of Parole Commissioners. See NRS 213.1099. Because the warden was not the proper respondent, the district court did not err in dismissing this claim.

In addition, even if appellant had brought his claim regarding the revocation of parole against the appropriate party, we conclude that his claim lacked merit. The grant of parole is an act of grace by the State, in which no liberty interest exists. NRS 213.10705. While a liberty interest may be created if an inmate is actually released on parole, no such interest is created when an inmate is informed that he is to be granted parole, but the grant is rescinded before the inmate's actual release. Kelch v. Director, 107 Nev. 827, 830, 822 P.2d 1094, 1095 (1991) (citing Jago v. Van Curen, 454 U.S. 14, 17 (1981)). In this case, the parole board informed appellant in July 2007, that he would be granted parole, but rescinded parole prior to appellant's release. Accordingly, the district court did not err in dismissing this claim.[2]

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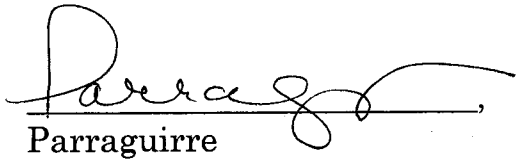
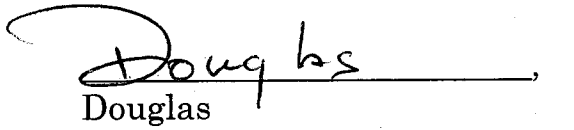
[2]To the extent appellant also appeals from the district court's implied denial of his motion to modify his petition, we conclude that this claim lacks merit. Appellant's motion to modify attempted to add a claim that the "inmate runner paging system" designed to provide legal research and documents to prisoners in disciplinary segregation denied him of his right to access the courts. While this claim may be cognizable in an action for civil relief, the lack of available legal research materials does not, in and of itself, relate to the validity of appellant's confinement. Accordingly, this claim was not cognizable in a petition for a writ of habeas corpus. See NRS 34.360.

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

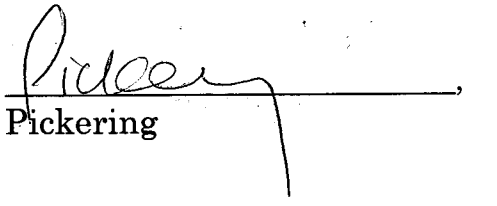
ORDER the judgment of the district court AFFIRMED.[3]



_____, J.
Parraguirre



_____, J.
Douglas



_____, J.
Pickering

cc: Hon. Richard Wagner, District Judge
Daniel Martinez
Attorney General Catherine Cortez Masto/Reno
Pershing County Clerk

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[3]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.