

IN THE SUPREME COURT OF THE STATE OF NEVADA

JIMMY EARL DOWNS,
Appellant,
vs.
WARDEN, NEVADA STATE PRISON,
WILLIAM DONAT,
Respondent.

No. 52714

FILED

MAR 26 2009

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 a post-conviction petition for a writ of habeas corpus. Sixth Judicial District Court, Pershing County; Richard Wagner, Judge.

On November 22, 2006, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition, and appellant filed a reply. 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 June 26, 2007, the district court denied the petition. This appeal followed.

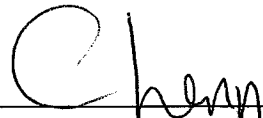
In his petition, appellant challenged 90 days of disciplinary segregation imposed at the conclusion of a prison disciplinary hearing. Appellant claimed that there was insufficient evidence and that the charges were unconstitutionally vague and overbroad.

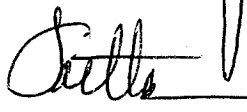
This court has “repeatedly held that a petition for [a] writ of habeas corpus may challenge the validity of current confinement, but not the conditions thereof.” Bowen v. Warden, 100 Nev. 489, 490, 686 P.2d 250, 250 (1984). Appellant did not allege that he lost statutory good time


credits, and the prison disciplinary form indicates that he was not referred for forfeiture of credits. Appellant's challenge to his placement in disciplinary segregation was a challenge to the condition of his confinement. Thus, appellant's challenge was not cognizable, and we affirm the order of the district court denying the petition.

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.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Richard Wagner, District Judge
Jimmy Earl Downs
Attorney General Catherine Cortez Masto/Carson City
Pershing County Clerk