

IN THE SUPREME COURT OF THE STATE OF NEVADA

RAYMOND PADILLA,
Appellant,

vs.

WARDEN, ELY STATE PRISON, E.K.
MCDANIEL,
Respondent.

No. 52780

FILED

AUG 21 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 dismissing a post-conviction petition for a writ of habeas corpus. Seventh Judicial District Court, White Pine County; Dan L. Papez, Judge.

On March 14, 2007, 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, which appellant opposed. 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 October 3, 2008, the district court dismissed appellant's petition. This appeal followed.

In his petition, appellant made four claims that his due process rights had been violated: (1) that he was placed in restrictive segregation without a hearing, (2) that he has been denied the opportunity to earn statutory credits earned pursuant to NRS 209.446, because he is in restrictive segregation, (3) that he has been denied the opportunity to

participate in programs at the prison because he is in restrictive segregation, and (4) that he was placed in restrictive segregation based solely on the fact that he is of Latino/Hispanic descent.

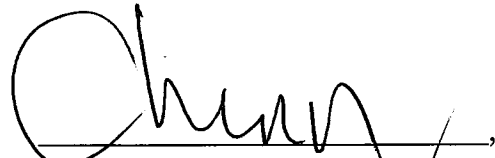
The district court dismissed the petition because appellant failed to set forth a cognizable claim for relief. Based upon our review of the record on appeal, we conclude that the district court did not err in dismissing the petition. This court has “repeatedly held that a petition for [a] writ of habeas corpus may challenge the validity of current confinement, but not the conditions thereof.” 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”). Because appellant’s claims challenged the conditions of confinement, we conclude that the district court correctly determined that appellant had failed to set forth a cognizable claim and we affirm the order of the district court dismissing the petition.¹

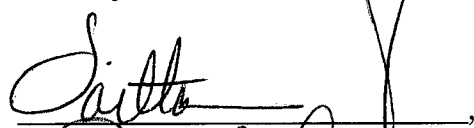
Having reviewed the record on appeal and for the reasons set forth above, we conclude that appellant is not entitled to relief and that

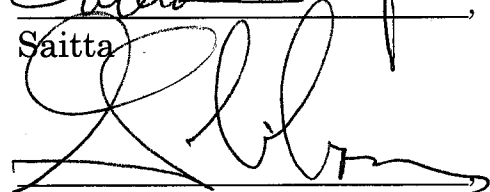
¹Further, appellant’s claim relating to credits is too speculative to warrant relief.

briefing and oral argument are unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


Cherry, J.


Saitta, J.


Gibbons, J.

cc: Hon. Dan L. Papez, District Judge
Raymond Padilla
Attorney General Catherine Cortez Masto/Ely
White Pine County Clerk