

IN THE SUPREME COURT OF THE STATE OF NEVADA

GEORGE VONTRESS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53459

FILED

SEP 10 2009

TRAGIE K. LINDEMAN
CLERK OF SUPREME COURT
BY W. Alvarado
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 April 21, 2008, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court, challenging a prison disciplinary hearing in which he was found guilty of MJ28 (work stoppage/demonstration) and G18 (hindering or delaying staff) and sanctioned to 60 days of austere housing, and 30 days loss of canteen. Appellant was subsequently transferred to another facility. The State filed a motion to dismiss. Appellant filed a number of documents, including responses to the State's motion to dismiss, a request for counsel and a request to amend or supplement the petition. The district court ordered the parties to clarify whether statutory good time credits had been forfeited as a result of the prison disciplinary proceedings. The State responded that appellant did not lose statutory good time credits and provided documentation to that effect. Appellant stated that he lost work credits as a result of his sanctions. 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 February 27, 2009, the district court dismissed appellant's petition. This appeal followed.¹

In his petition, appellant claimed that the disciplinary hearing officer was not impartial, he was denied his right to call witnesses at the hearing, and he was not provided a copy of the code of conduct.

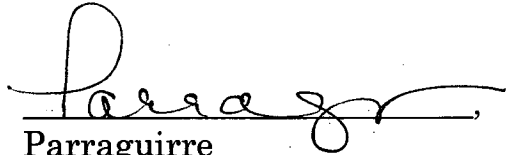
Based upon our review of the record on appeal, we conclude that the district court did not err in dismissing appellant's petition. This court has "repeatedly held that a petition for [a] writ of habeas corpus may challenge the validity of current confinement, but not the conditions thereof." Bowen v. 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). Appellant did not allege and the record does not reveal that any statutory good time credits were actually forfeited in the instant case.² Consequently, appellant's challenge was not cognizable in a petition for a writ of habeas corpus. Therefore, we affirm the order of the district court dismissing the petition.

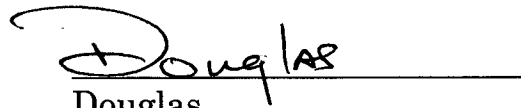
¹To the extent that appellant challenged the denial of his request for counsel and motion for leave to amend and supplement the petition, we conclude that the district court did not abuse its discretion in denying the requests. NRS 34.750(1), (5).

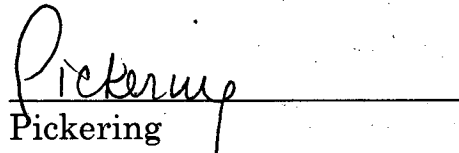
²The fact that appellant was not able to continue to earn the same amount of work credits because of the sanctions and that work credits were withdrawn as they were not actually earned does not rise to the level of a forfeiture of credits. Thus, appellant's claim relating to credits was not cognizable in a petition for a writ of habeas corpus in the instant case.

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

ORDER the judgment of the district court AFFIRMED.

 J.
Parraguirre

 J.
Douglas

 J.
Pickering

cc: Hon. Dan L. Papez, District Judge
George Vontress
Attorney General Catherine Cortez Masto/Carson City
White Pine County District Attorney
White Pine County Clerk