

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD GUTIEREZ,
Appellant,
vs.
NEVADA DEPARTMENT OF PRISONS,
Respondent.

No. 53764

FILED

OCT 07 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 denying a petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

On November 10, 2008, appellant filed a proper person petition for a writ of habeas corpus in the district court. The State opposed the petition. On May 28, 2009, the district court denied the petition. This appeal followed.

In his petition, appellant claimed that he was denied a fair and impartial parole hearing because the Parole Board considered his designation as being a member of a security threat group in denying parole. Appellant claimed that he was improperly classified as a member of a security threat group and claimed that this caused him to be housed in segregated housing. His placement in segregated housing caused him to lack access to the law library and persons trained in the law.

Based upon our review of the record on appeal, we conclude that the district court did not err in denying the petition. To the extent that appellant challenged the denial of parole, appellant was not entitled to relief. Parole is an act of grace of the state, and there is no cause of

action permitted when parole has been denied. See NRS 213.10705; Niergarth v. Warden, 105 Nev. 26, 768 P.2d 882 (1989). To the extent that appellant challenged his classification as being a member of a security threat group and his segregated housing, those challenges were improperly raised in a petition for a writ of habeas corpus as they challenge the conditions of confinement. Bowen v. Warden, 100 Nev. 489, 686 P.2d 250 (1984). Therefore, 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.

Cherry, J.
Cherry

Douglas, J.
Douglas

Gibbons, J.
Gibbons

cc: Hon. Michelle Leavitt, District Judge
Richard Gutierrez
Attorney General Catherine Cortez Masto/Las Vegas
Eighth District Court Clerk