

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID OWENS HOOPER,
Appellant,
vs.
WARDEN, ELY STATE PRISON, E.K.
MCDANIEL,
Respondent.

No. 55498

FILED

SEP 10 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a “nunc pro tunc belated petition for writ of habeas corpus and incorporated first amendment complaint petition.”¹ Seventh Judicial District Court, White Pine County; Steve L. Dobrescu, Judge.

In his petition filed on May 27, 2009, appellant appeared to be challenging his stay in the prison infirmary, his lack of ability to communicate with persons outside of the prison during his stay in the infirmary, and his lack of access to his files while in the infirmary. Appellant also appears to be challenging the lack of fire suppression equipment in his cell and the “shake down” of his cell.² These claims

¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

²Appellant also appeared to claim that the notice of charges for a disciplinary hearing were not delivered to him in a timely manner.

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challenged the conditions of confinement, and thus, were improperly raised in a petition for a writ of habeas corpus. See Bowen v. Warden, 100 Nev. 489, 686 P.2d 250 (1984).

It also appeared that appellant claimed that the prison's refusal to allow him to contact persons outside the prison or to have access to his files while he was in the infirmary was a violation of his First Amendment rights. Appellant failed to demonstrate that the restrictions were a violation of his First Amendment rights or that he was entitled to relief under NRS 34.185. Therefore, the district court did not err in denying this claim. We

ORDER the judgment of the district court AFFIRMED.³

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

... continued

Appellant failed to allege specific facts that, if true, entitled him to relief. See Hargrove v. State, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

³We 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.

cc: Hon. Steve L. Dobrescu, District Judge
David Owens Hooper
Attorney General/Ely
White Pine County Clerk