

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAVIER SALDANA,
Appellant,
vs.
GREG SMITH, WARDEN,
Respondent.

No. 56011

FILED

MAR 18 2011

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.¹ First Judicial District Court, Carson City; James Todd Russell, Judge.

In his petition filed on January 5, 2010, appellant challenged the loss of statutory good time credits as the result of a prison disciplinary hearing in which he was found guilty of extortion, mayhem, and tattooing. Preliminarily, we note that the district court improperly dismissed the petition as procedurally barred pursuant to NRS 34.726 because appellant waited more than one year after the disciplinary proceeding was final to file the instant petition. NRS 34.726 does not apply to post-conviction petitions for writs of habeas corpus challenging the loss of statutory good

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


time credits. Nevertheless, we affirm the order of the district court because the district court reached the correct result in dismissing the petition for the reasons discussed below. See Kraemer v. Kraemer, 79 Nev. 287, 291, 382 P.2d 394, 396 (1963) (holding that a correct result will not be reversed simply because it is based on the wrong reason).

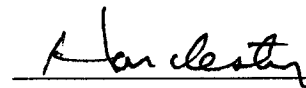
Based upon our review of the record on appeal, we conclude that appellant failed to demonstrate the violation of any protected due process right for the following reasons: (1) he received adequate notice of the charges,² (2) he had no right to call the victim as a witness because the right to cross-examination and confrontation does not extend to prison disciplinary proceedings, (3) he received a written statement of the evidence relied upon, (4) appellant was not entitled to examine the confidential informant documents and the disciplinary hearing officer made an express finding of reliability and danger if the information was disclosed, and (5) some evidence supported the decision of the disciplinary hearing officer. See Wolff v. McDonnell, 418 U.S. 539, 563-69 (1974); Zimmerlee v. Keeney, 831 F.2d 183, 186 (9th Cir. 1987); Superintendent v. Hill, 472 U.S. 445, 455-56 (1985). As to appellant's claim that the hearing was not recorded, this claim is belied by the record. Appellant's disciplinary form III states that the hearing was recorded. Further, as to appellant's claim that the hearing officer should not have allowed another

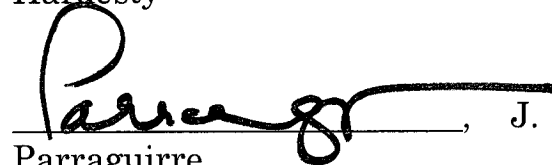
²Appellant's claim that the hearing was not timely held after the violation does not implicate appellant's due process rights, see Wolff, 418 U.S. at 563-69, and would not entitle him to relief.

inmate to translate for him, appellant failed to demonstrate that this was error or that any miscommunication occurred. Therefore, the district court did not err in dismissing the petition, and we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. James Todd Russell, District Judge
Javier Angel Saldana
Attorney General/Carson City
Carson City Clerk