

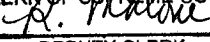
IN THE SUPREME COURT OF THE STATE OF NEVADA

FREDERICK DEON WORDLAW,
Appellant,
vs.
DWIGHT NEVEN,
Respondent.

No. 58276

FILED

JUN 13 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Joanna Kishner, Judge.

In his petition filed on May 21, 2009, appellant challenged the loss of statutory good time credits as the result of a disciplinary hearing in which he was found guilty of MJ 51 (compromising a staff member) and MJ 53 (possession/sale of intoxicants). When a prison disciplinary hearing results in the loss of statutory good time credits, the United States Supreme Court has held that minimal due process rights entitle a prisoner to: (1) advance written notice of the charges, (2) a qualified opportunity to call witnesses and present evidence, and (3) a written statement by the fact finders of the evidence relied upon. Wolff v. McDonnell, 418 U.S. 539, 563-69 (1974). In addition, some evidence must support the disciplinary hearing officer's decision. Superintendent v. Hill, 472 U.S. 445, 455

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).

(1985); see also Edwards v. Balisok, 520 U.S. 641, 647-48 (1997) (recognizing that the some-evidence standard for a finding of guilt was a factor in addition to due process requirements); Nevada Dep't of Corr., Admin. Reg. 707.1, Inmate Disciplinary Manual, § 2(B)(11)(a) (2008) (“A finding of guilt must be based on some evidence, regardless of the amount.” (emphasis added)). In reviewing a claim based on insufficiency of the evidence, this court must determine whether there is any evidence in the record to support the disciplinary hearing officer’s conclusion. Hill, 472 U.S. at 455-56.


Our review of the record in this case indicates that the district court erred in denying appellant’s post-conviction petition for a writ of habeas corpus. While the some-evidence standard is very low, it was not met in this case. The record does not contain any evidence that appellant committed MJ 51 or MJ 53,² because according to hearings held on August 27, 2010, and February 25, 2011,³ no tape or transcript exists from the disciplinary hearing. Further, the summary of evidence relied upon does not contain any factual findings. Because there is no evidence in the record to support the district court’s findings, we reverse the district


²Appellant also contends that he did not receive notice that he was being charged with MJ 53. While it appears that appellant did not receive a notice of charges for this count, appellant was informed at the preliminary hearing, held on February 1, 2009, that he was being charged with MJ 53, and he signed the form indicating that he understood that. Therefore, appellant had notice of the charges prior to the disciplinary hearing, which was held on March 3, 2009.

³This court is relying on the minutes from the February 25, 2011, hearing, as the Eighth District Court Clerk informed this court that no transcripts were available from this hearing.

court's decision to deny relief, and order the district court to enter an order granting appellant's post-conviction petition for a writ of habeas corpus. Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.⁴


_____, J.
Saitta


_____, J.
Pickering


_____, J.
Hardesty

cc: Hon. Joanna Kishner, District Judge
Frederick Deon Wordlaw
Attorney General/Las Vegas
Eighth District Court Clerk

⁴In light of this court's conclusion that appellant's due process rights were violated in the instant case, this court declines to consider the remainder of the claims raised in appellant's habeas corpus petition. We have also considered all proper person documents filed or received in this matter. We conclude that appellant is only entitled to the relief described herein.