

IN THE SUPREME COURT OF THE STATE OF NEVADA

ERIC GRIFFIN,
Appellant,

vs.

ROGER L. HUNT; PATRICK WELSH;
JASON CARR; AND NEVADA
SOUTHERN DETENTION CENTER,
Respondents.

No. 58455

FILED

DEC 07 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY A. Ingersoll
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order dismissing appellant's "affidavit of truth."¹ Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.

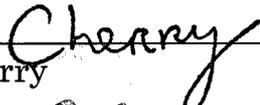
On May 5, 2011, appellant filed a document labeled "Affidavit of Truth: Criminal Complaint." The district court construed this document to be a request for habeas relief and denied the petition because appellant is being held on federal charges and not state charges, he has not yet been convicted, and it appeared that appellant was challenging the conditions of his confinement.

We conclude that the district court properly construed this document as a request for habeas relief. The district court correctly determined that it did not have the power to consider the petition because appellant failed to establish that he was in the custody of the State of Nevada. Nev. Const. art. 6 § 6(1) (providing that the district courts may

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).

issue a writ of habeas corpus on petition by “any person who is held in actual custody in their respective districts, or who has suffered a criminal conviction in their respective districts and has not completed the sentence imposed pursuant to the judgment of conviction”). Further, it appears that appellant’s claims challenged the conditions of his confinement and these claims were not cognizable in a petition for a writ of habeas corpus filed in state court. Bowen v. Warden, 100 Nev. 489, 490, 686 P.2d 250, 250 (1984); see also Sandin v. Conner, 515 U.S. 472, 484 (1995). Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, J.
Cherry


_____, J.
Gibbons


_____, J.
Pickering

cc: Hon. Robert W. Lane, District Judge
Eric Griffin
Attorney General/Carson City
Nye County Clerk

²We 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.