

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LAMARR ROWELL,
Appellant,
vs.
JAMES KEENER; STARLIN GENTRY;
AND THE STATE OF NEVADA,
Respondents.

No. 65317

FILED

MAR 23 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a pro se appeal from a district court summary judgment in a civil rights action. Sixth Judicial District Court, Pershing County; Richard Wagner, Judge.

Appellant, an inmate, filed a civil rights complaint in the district court alleging, amongst other things, that his due process rights were violated when he was found guilty of violating prison rules by selling his kosher meal items to another inmate because there was no evidence to support a finding of guilt. On cross-motions for summary judgment, the district court found in favor of respondents, concluding that the statement of the charging officer was sufficient evidence to support the guilty finding.¹ This appeal followed.

We review a district court order granting summary judgment de novo, with no deference to the findings of the district court. *See Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Summary judgment is appropriate if the pleadings and evidence demonstrate that no genuine issues of material fact remain and that the moving party is

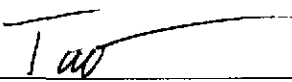
¹In the facts section of his appeal statement, appellant comments that respondents failed to follow administrative regulations. Appellant did not, however, present any arguments regarding that issue, and instead, focused solely on the evidentiary issue.

entitled to judgment as a matter of law. NRCP 56(c); *see also Wood*, 121 Nev. at 729, 121 P.3d at 1029. When reviewing such a motion, we must review the evidence and all reasonable inferences drawn from the evidence in a light most favorable to the nonmoving party. *Wood*, 121 Nev. at 729, 121 P.3d at 1029.

To affirm a prison disciplinary hearing officer's finding of guilt in a prison disciplinary action, there must be some evidence in the record supporting that decision. *See Burnsworth v. Gunderson*, 179 F.3d 771, 775 (9th Cir. 1999) (providing that due process requires that there be some evidentiary basis for a prison disciplinary action); *see also Abarra v. State*, 131 Nev. ___, ___, ___ P.3d ___, ___ (Adv. Op. No. 3, February 5, 2015). In this case, the record contains an officer's report stating that the officer received information that appellant had been selling his kosher food items, found kosher food items with appellant's name on them in another inmate's cell, and obtained multiple witness statements that appellant sold the food on several previous occasions. That evidence supported the hearing officer's conclusions. Therefore, the district court did not err in granting summary judgment in favor of respondents.² Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

²Because we conclude that the district court correctly found that some evidence in the record supported the disciplinary action, we need not reach the district court's finding that appellant failed to state a due process claim because he did not show that he was deprived of a liberty interest.

cc: Hon. Richard Wagner, District Judge
Lamarr Rowell
Attorney General/Carson City
Pershing County Clerk