

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID OWENS HOOPER,
Appellant,
vs.
RENEE BAKER, WARDEN,
Respondent.

No. 66867

FILED

APR 14 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Tracie K. Lindeman*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus.¹ Seventh Judicial District Court, White Pine County; Gary Fairman, Judge.

In his petition, filed on February 8, 2013, appellant David Hooper challenged a prison disciplinary hearing that resulted in the loss of statutory good time credits. Hooper's petition was largely unintelligible, but Hooper appeared to assert that there was insufficient evidence presented at the disciplinary hearing and that the hearing officer was not

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).

impartial. Hooper also appeared to assert that federal law barred state prison officials from deducting statutory good-time credits.

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-finder of the evidence relied upon. *Wolff v. McDonnell*, 418 U.S. 539, 563-69 (1974). Due process also requires an impartial decision maker. *Id.* at 571. In addition, some evidence must support the disciplinary hearing officer's decision. *Superintendent v. Hill*, 472 U.S. 445, 455 (1985). In reviewing a claim that the "some evidence" standard was not met, the court must determine whether there is any evidence in the record to support the disciplinary hearing officer's conclusion. *Id.* at 455-56. Significantly, reviewing courts are not required to examine the entire record, independently assess the credibility of witnesses, or weigh the evidence. *Id.*

Hooper did not demonstrate that he was entitled to relief. The evidence in the record was sufficient to support the finding of MJ48 (violation of court procedures). Specifically, the hearing officer relied upon the court documents Hooper filed and the district court's finding that Hooper had filed a petition containing 92 claims that were patently without merit. There was no support in the record that the hearing officer was biased against Hooper and Hooper provided no factual support for this claim. See *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225

(1984) (stating that bare claims are insufficient to demonstrate a petitioner is entitled to relief). The evidence provided by the Attorney General's Office demonstrated that prison officials complied with Hooper's due process rights and properly deducted his credits. Therefore, the district court did not err in denying the petition.

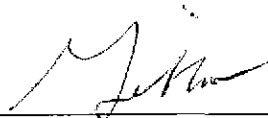
Next, Hooper appeared to assert that prison officials are participating in an illegal racketeering scheme and detaining him in furtherance of that scheme, and that prison officials have retaliated against him for the exercise of his First Amendment rights. These are challenges to Hooper's conditions of confinement and a petition for a writ of habeas corpus is not the proper vehicle to raise such challenges. See *Bowen v. Warden*, 100 Nev. 489, 490, 686 P.2d 250, 250 (1984). Therefore, Hooper was not entitled to relief for these claims.


Finally, Hooper appeared to challenge his judgment of conviction by arguing that federal law should control over Nevada's procedural bars governing post-conviction petitions for a writ of habeas corpus and that his appellate counsel was ineffective. As Hooper's petition challenged the computation of time served, a challenge to the judgment of conviction cannot be raised in the same petition. See NRS 34.738(3). Any challenges to Hooper's judgment of conviction must be raised in a separately filed post-conviction petition for a writ of habeas corpus in the

county in which he was convicted.² See NRS 34.724(1); NRS 34.738(1).

Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Gary Fairman, District Judge
David Owens Hooper
Attorney General/Ely
White Pine County Clerk

²We express no opinion as to whether Hooper could meet the procedural requirements of NRS chapter 34.

³We have reviewed Hooper's request to reconsider his motion to reassign this matter to the Nevada Supreme Court and conclude that relief is not warranted. See NRAP 17(d) (a party may not file a motion or other pleading seeking reassignment of a case that the Nevada Supreme Court has assigned to the Court of Appeals).