

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRENT ELI MORRIS,
Appellant,
vs.
GREG SMITH, WARDEN AT WARM
SPRINGS CORRECTIONAL CENTER,
Respondent.

No. 66900

FILED

APR 14 2015

TRACIE E. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
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; Steve L. Dobrescu, Judge.

In his petition filed on July 31, 2014, appellant Brent Eli Morris challenged a prison disciplinary hearing that resulted in his placement in disciplinary segregation and the loss of 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

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).

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). 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.*

First, Morris claimed that he did not receive timely notice of the disciplinary charges against him. Morris' claim lacked merit. Prison officials must provide notice of the disciplinary charges an inmate faces at least 24 hours before the disciplinary hearing. *Wolff*, 418 U.S. at 564. The evidence before the district court demonstrates that Morris received the notice of charges on May 7, 2014, and the hearing was conducted on May 31, 2014. Accordingly, Morris received the notice of charges at least 24 hours prior to the hearing. Therefore, the district court did not err in denying this claim.

Second, Morris claimed that there was insufficient evidence presented at the disciplinary hearing to support the disciplinary charges of unauthorized use of equipment or mail (MJ31) and charging fees for legal services (MJ29). Morris' claim lacked merit. The evidence presented at the disciplinary hearing established that Morris prepared legal documents for a fellow inmate for a fee and used the mail to facilitate payment for the


legal services. Accordingly, there was some evidence provided at the hearing in support of the charges. *See Hill*, 472 U.S. at 455. Therefore, the district court did not err in denying this claim.


Third, Morris claimed that the hearing officer improperly denied his request to call two witnesses at the disciplinary hearing. Morris' claim lacked merit. Prison officials have the discretion to keep a disciplinary hearing within reasonable limits and may properly decline to permit witness testimony for many reasons. *Wolff*, 418 U.S. at 566-67. Here, the disciplinary hearing officer concluded that the requested witnesses were unavailable to testify because neither person was within the Nevada Department of Corrections' custody. The disciplinary officer then accepted Morris' assertion that the witnesses would have supported Morris' position. Accordingly, Morris failed to demonstrate that his limited right to call witnesses was violated. *See id.* Therefore, the district court did not err in denying this claim.

Fourth, Morris claimed that placement in disciplinary segregation and revocation of 180 days of good-time credits violated his rights against cruel and unusual punishment. Morris failed to demonstrate that he was entitled to relief. A challenge to placement in disciplinary segregation is a challenge to the conditions of confinement and is not properly raised in a post-conviction petition for a writ of habeas corpus. *See Bowen v. Warden*, 100 Nev. 489, 490, 686 P.2d 250, 250 (1984). Morris failed to demonstrate that the revocation of good-time credits as a result of a disciplinary violation amounted to cruel and unusual punishment. *See Farmer v. Brennan*, 511 U.S. 825, 834 (1994)

(explaining the test for when prison officials violate the Eighth Amendment prohibition against cruel and unusual punishment). Therefore, the district court properly denied relief for these claims.

Having concluded that Morris is not entitled to relief, we
ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Steve L. Dobrescu, District Judge
Brent Eli Morris
Attorney General/Carson City
White Pine County District Attorney
White Pine County Clerk