

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ADAM WYNN TINGLEY,
Appellant,
vs.
THE STATE OF NEVADA; AND
WARDEN BACA,
Respondents.

No. 67069

FILED

APR 14 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
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 First Judicial District Court, Carson City; James Todd Russell, Judge.

On August 21, 2014, appellant Adam Tingley filed a post-conviction petition for a writ of habeas corpus in the district court challenging a prison disciplinary hearing, which resulted in a finding of guilt of escape (MJ6). This was Tingley's second disciplinary hearing regarding the escape because his first disciplinary hearing was overturned during an administrative appeal. At the first disciplinary hearing, Tingley

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).

was referred for the statutory forfeiture of credits and forfeited 129 days. These credits were not restored between the two hearings. Approximately three months after being found guilty again, the Nevada Department of Corrections restored 101 days of credit. While Tingley was referred for the statutory loss of credits after his second disciplinary hearing, there is no evidence in the record that he lost any credits after that hearing.


In his petition, Tingley claimed that he was deprived of due process at his disciplinary hearing because he was told all 129 days of his statutory credit would be restored, the State prosecuted him while his appeal was pending, and he received a new prison sentence and was denied parole.²

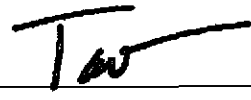
Tingley failed to demonstrate a violation of due process at his disciplinary hearing because he received: (1) advance written notice of the charges; (2) a written statement of the fact finders of the evidence relied upon and the reasons for disciplinary action; and (3) a qualified right to


²To the extent that Tingley challenged his placement in disciplinary segregation, restitution, his prosecution by the State, the imposition of a new prison term and denial of parole, Tingley's challenge was not cognizable in a petition for a writ of habeas corpus challenging a disciplinary hearing. See *Bowen v. Warden*, 100 Nev. 489, 686 P.2d 250 (1984); see also *Sandin v. Conner*, 515 U.S. 472, 486 (1995) (holding that liberty interest protected by the Due Process Clause will generally be limited to freedom from restraint which imposes an atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life).

call witnesses and present evidence. *Wolff v. McDonnell*, 418 U.S. 539, 563-69 (1974). Therefore, Tingley failed to demonstrate that he was entitled to relief, and we

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. James Todd Russell, District Judge
Adam Wynn Tingley
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk

³We have reviewed all documents that Tingley has submitted 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 Tingley 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.