

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARK W. CUTLER,
Appellant,
vs.
WARDEN SMITH,
Respondent.

No. 68028

FILED

OCT 19 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, denying a motion to strike reply, and granting the respondent's motion to strike extraneous arguments.¹ First Judicial District Court, Carson City; James Todd Russell, Judge.

In his January 7, 2015, petition, appellant Mark W. Cutler first claimed the Nevada Department of Corrections (NDOC) improperly denied him the opportunity to earn credits through work or at a conservation camp due to his health problems. Cutler's claim lacked merit

¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude the record is sufficient for our review and full briefing is unwarranted. *See Lockett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

because he has no right to employment while in prison or right to housing at any particular correctional institution. See NRS 209.461(8); *Collins v. Palczewski*, 841 F. Supp. 333, 336-37 (D. Nev. 1993) (recognizing that a prisoner has no independent constitutional right to employment and that the Nevada statutes do not mandate employment); see also *Meachum v. Fano*, 427 U.S. 215, 224 (1976) (recognizing the U.S. Constitution does not “guarantee that the convicted prisoner will be placed in any particular prison.”). Therefore, Cutler cannot demonstrate the lack of employment or placement at a conservation camp and the resulting lack of opportunity to earn statutory credits violated any protected right. Therefore, the district court did not err in denying this claim.


Second, Cutler claimed the inability of the NDOC to house inmates with health problems at the Stewart Conservation Camp violates the Americans with Disabilities Act. This claim is beyond the scope of a post-conviction petition for a writ of habeas corpus. See NRS 34.720; NRS 34.724(1). Therefore the district court properly denied relief for this claim.


Third, Cutler claimed he should be housed in a minimum security facility. This is a challenge to Cutler’s 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). Therefore, the district court properly denied relief for this claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. James Todd Russell, District Judge
Mark W. Cutler
Attorney General/Carson City
Carson City Clerk

²We also conclude the district court did not err in denying Cutler's motion to strike reply and granting the respondent's motion to strike extraneous arguments. We have reviewed Cutler's appeal statement and we conclude no relief based upon that submission is warranted.