

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEPHEN BICKFORD,  
Appellant,  
vs.  
JAMES G. COX; (FNU) HOWELL; J.  
NASH; ALBERTA PERALTA; BRUCE  
BANNISTER; AND THE STATE OF  
NEVADA DEPARTMENT OF  
CORRECTIONS,  
Respondents.

No. 70208

**FILED**

DEC 14 2016

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Appellant Stephen Bickford appeals from an order of the district court granting a motion to dismiss, or in the alternative, motion for summary judgment.<sup>1</sup> First Judicial District Court, Carson City; James Todd Russell, Judge.

Bickford first argues the district court erred in denying his motion requesting to hold the respondents' dispositive motion in abeyance. After the respondents' motion had been fully briefed and submitted for decision, Bickford sought leave to file an additional opposition because he had been transferred to a different prison for a short time due to a court hearing. Bickford asserted he had been recently returned to his previous prison, he had renewed access to his legal materials, and he could demonstrate a genuine issue of material fact if permitted to file such a response.

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<sup>1</sup>This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

Given the relief Bickford sought, the district court construed the motion to be a request to file a sur-reply and a request for a continuance to conduct discovery pursuant to NRCP 56(f). We review the denial of a motion seeking a continuance of a motion for summary judgment to allow further discovery for an abuse of discretion. *Choy v. Ameristar Casinos, Inc.*, 127 Nev. 870, 872, 265 P.3d 698, 700 (2011).

The district court denied the motion, concluding Bickford had not moved for a continuance in a timely manner and had not explained how a continuance would permit him to demonstrate there was a genuine issue of material fact. See NRCP 56(f) (“Should it appear from the affidavits of a party opposing the motion that the party cannot for reasons stated present by affidavit facts essential to justify the party's opposition, the court . . . may order a continuance”); *Francis v. Wynn Las Vegas, LLC*, 127 Nev. 657, 669, 262 P.3d 705, 714 (2011) (“A motion for a continuance under NRCP 56(f) is appropriate only when the movant expresses how further discovery will lead to the creation of a genuine issue of material fact.” (quotation and alteration omitted)). The district court was therefore within its discretion to deny Bickford’s motion.

Next, Bickford argues the district court erred in denying his due process claim regarding a prison disciplinary hearing because a transcript included as an exhibit in support of the respondents’ dispositive motion created a genuine issue of material fact. Bickford asserts the transcript demonstrates he did not commit the disciplinary infraction. Bickford’s argument lacks merit.


This court reviews summary judgments de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Summary judgment is appropriate if the pleadings and other evidence on file, viewed in the light most favorable to the nonmoving party, demonstrate that no

genuine issues of material fact remain in dispute and the moving party is entitled to judgment as a matter of law. *Id.*

The district court did not deny Bickford's due process claim on its merits. The district court concluded this claim was barred by the statute of limitations because his claim accrued in 2006 and Bickford did not file his complaint until 2015. *See* NRS 11.190(4)(e); NRS 11.220. The district court also concluded this claim was barred by the doctrine of claim preclusion because Bickford had previously raised the same issue in a postconviction petition for a writ of habeas corpus filed in the Seventh Judicial District Court. *See Five Star Capital Corp. v. Ruby*, 124 Nev. 1048, 1055, 194 P.3d 709, 713 (2008). Bickford raises no arguments regarding either of these issues and only argues the merits of his claim. A review of the record reveals the district court correctly declined to address the merits of Bickford's claim due to application of the statute of limitations and the doctrine of claim preclusion. Therefore, Bickford fails to demonstrate he is entitled to relief for this claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. James Todd Russell, District Judge  
Stephen Bickford  
Attorney General/Carson City  
Attorney General/Las Vegas  
Carson City Clerk