

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRIAN EUGENE LEPLEY,
Appellant,
vs.
THE STATE OF NEVADA; AND BRIAN
WILLIAMS, WARDEN,
Respondents.

No. 75255-COA

FILED

NOV 06 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE


Brian Eugene Lepley appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on April 28, 2017.¹ Seventh Judicial District Court; White Pine County; Gary Fairman, Judge.


Lepley challenged prison disciplinary proceedings that resulted in a finding of guilt of G14 (failure to follow rules and regulations) and MJ31 (unauthorized use of equipment or mail). Lepley's claims challenging the prison disciplinary proceeding were not cognizable in a petition for a writ of habeas corpus filed in state court because he had admitted he did not lose any credits and the claims challenged the conditions of confinement. See *Bowen v. Warden*, 100 Nev. 489, 686 P.2d 250 (1984); see also *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). Lepley's claims regarding a due process violation in the prison appeals process also failed because an institutional appeal is not a protected due process right. See *Sandin v. Conner*, 515 U.S. 483-84, 486 (1995).

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

Lepley also challenged an order of the district court transferring jurisdiction from the Eighth Judicial District Court to the Seventh Judicial District Court when Lepley was transferred to a different prison. Because Lepley was housed in a prison within the eighth judicial district when he initially filed his petition, the Eighth Judicial District Court did not need to transfer Lepley's case pursuant to NRS 34.738(1). See *Crump v. First Judicial Dist. Court*, 114 Nev. 590, 594, 958 P.2d 1200, 1202 (1998). However, Lepley was not entitled to relief. The "district court *may retain* jurisdiction despite a transfer of the habeas petitioner," *id.* (emphasis added), but Nevada's appellate courts have never held that the original district court *must* retain jurisdiction. Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

²We have reviewed all documents Lepley has filed in this matter, and we conclude no relief based upon those submissions is warranted. To the extent Lepley has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we decline to consider them in the first instance.

cc: Hon. Gary Fairman, District Judge
Brian Eugene Lepley
Attorney General/Carson City
Attorney General/Ely
White Pine County Clerk