



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MATTHEW DOUGLAS,
Appellant,
vs.
NETHANJAH BREITENBACH,
WARDEN,
Respondent.

No. 92109-COA

ORDER OF AFFIRMANCE

Matthew Douglas appeals from a district court order denying a “petition for a writ of habeas corpus (computation of time)” filed on July 10, 2025. Eleventh Judicial District Court, Pershing County; Hon. William A. Maddox, Senior Judge.

In his petition, Douglas claimed that the Nevada Department of Corrections (NDOC) improperly calculated the maximum number of days he must serve pursuant to his 15-year aggregate maximum prison sentence. Douglas contended he is required to serve only 5,475 days rather than the 5,479 days calculated by the NDOC because nothing authorizes the NDOC to include leap years in the number of days he must serve.

A petitioner who files a postconviction habeas petition challenging the computation of time served must first exhaust all available administrative remedies. *See* NRS 34.724(1). The exhaustion requirement acts as a procedural bar to a postconviction habeas petition challenging the computation of time served, *see Hall v. Oliver*, 141 Nev., Adv. Op. 70, 584 P.3d 161, 164 (Ct. App. 2025), and a court must dismiss such a petition without prejudice where the requirement has not been satisfied, *see* NRS 34.810(2). “Generally, in order to exhaust administrative remedies, [t]he prison’s grievance process requires

an inmate to first file an informal grievance, followed by first- and second-level formal grievances.” *Hall*, 141 Nev., Adv. Op. 70, 584 P.3d at 164 (internal quotation marks omitted); *see generally* NDOC AR 740. And a petitioner must, on the face of the petition, make specific factual allegations regarding the exhaustion of all available administrative remedies that, if true, would entitle the petitioner to consideration of the petition on the merits. *See Hall*, 141 Nev., Adv. Op. 70, 584 P.3d at 165.

NRS 34.733 provides that a postconviction habeas petition challenging the computation of time served “must be in substantially” the form outlined in the statute. To help a petitioner demonstrate the exhaustion of administrative remedies, the form includes a question as to whether the petitioner has “filed a grievance raising the same computation of time issue as [they] are raising in this petition.” *Id.* If so, the form asks for the “[n]umber assigned to [the] grievance,” the result, whether the petitioner “complete[d] all levels of the grievance procedure,” and if not, why. *Id.* The form instructs a petitioner that they “must include facts which support [their] grounds for relief” and “may submit additional pages if necessary with this form.” *Id.*

In his form petition, Douglas generally alleged he exhausted his available administrative remedies. In the portion of the petition asking if Douglas filed a grievance raising the same computation issue as he raised in his petition, Douglas marked “Yes.” In the portion asking for a grievance number, Douglas wrote “N/A.” Where the petition asked Douglas to explain the result of the grievance, Douglas wrote “non-grievable issue.” In the portion asking Douglas if he completed all levels of the grievance, Douglas marked “No.” In the portion asking Douglas to explain why he did not complete all levels of the grievance procedure, Douglas wrote: “on informal level received

DOC-3098 improper grievance memo, non-grievable issue state, federal and local laws and regulations.”

Douglas did not allege he completed the three-step grievance process. To the extent he alleged he did not have to complete the three-step grievance process because this was a non-grievable issue involving state, federal, or local laws and regulations, Douglas’s claim was grievable because it implicated the NDOC’s ability to retain him in prison, which is within NDOC’s authority and control. *See* NDOC AR 740.03(4) (stating “claims occurring out of, or relating to, issues within the authority and control of the Department may be submitted for review and resolution” but that challenges to state, federal, or local laws are non-grievable issues); NRS 209.131(3) (providing that the director of the NDOC shall “[r]eceive, retain and release, in accordance with law, offenders sentenced to imprisonment in the state prison”). Therefore, Douglas’s petition should have been dismissed without prejudice based on his failure to allege specific facts demonstrating he exhausted his administrative remedies before filing the instant petition.¹ *See* NRS 34.810(2).

Even assuming Douglas satisfactorily alleged he exhausted his administrative remedies, and as a separate and independent ground to deny relief, we conclude that Douglas’s claim is barred by the law-of-the-case doctrine. Here, the district court applied the law-of-the-case doctrine to Douglas’s petition, finding a district court had previously considered and rejected his claim that the maximum amount of days he should serve for his

¹The district court should have considered and determined whether Douglas had exhausted his administrative remedies before addressing the merits of his petition. *See Hall*, 141 Nev., Adv. Op. 70, 584 P.3d at 165-66. Nevertheless, for the reasons discussed herein, we affirm the district court’s resolution of Douglas’s petition.

15-year aggregate maximum prison terms is 5,475 days rather than 5,479 days because the NDOC improperly included leap years in its calculation.

“Under the law-of-the-case doctrine, a legal decision made at one stage of a criminal or civil proceeding should remain the law of that case throughout the litigation, unless and until the decision is modified or overruled by a higher court.” *Litchfield v. Tucson Ridge Homeowners Ass’n*, 140 Nev., Adv. Op. 57, 555 P.3d 267, 270 (2024) (internal quotation marks omitted). As noted by the district court, Douglas’s instant petition involved the same issue he raised in a prior filing that was considered and denied on the merits by a district court. Thus, the law-of-the-case doctrine applied to this issue and barred reconsideration absent an exception to that doctrine. *See id.* at 270-71. On appeal, Douglas does not address the district court’s application of the law-of-the-case doctrine or argue that an exception to the doctrine applies in this matter. For these reasons, we conclude the district court did not err by denying Douglas’s petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.



Bulla, C.J.



Gibbons, J.



Westbrook, J.

cc: Hon. William A. Maddox, Senior District Judge
Attorney General/Las Vegas
Pershing County District Attorney
Eleventh District Court Clerk
Matthew Douglas