

IN THE SUPREME COURT OF THE STATE OF NEVADA

CURTIS L. DOWNING,
Appellant,
vs.
WILLIAM T. CURRY,
Respondent.

No. 41171

FILED

APR 25 2005

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Riborde*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order dismissing appellant's complaint for failure to state a claim upon which relief can be granted, pursuant to NRCP 12(b)(5). First Judicial District Court, Carson City; Michael R. Griffin, Judge.

Having reviewed the record in this matter, we conclude that the district court properly dismissed the complaint.¹ Appellant filed an action under 42 U.S.C. § 1983 alleging that respondents had violated his First and Fourteenth Amendment rights under the U.S. Constitution by retaliating against him for exercising his constitutional right to assist other inmates in their legal work as a law clerk, and for complaints he made regarding the lack of certain publications intended to assist non-citizen inmates on international matters at the Nevada State Prison law library.


The district court concluded, based on the pleadings, that appellant does not have a constitutional right to assist other inmates in


¹See Edgar v. Wagner, 101 Nev. 226, 699 P.2d 110 (1985) (holding that on review of an order granting a motion to dismiss, this court's task is to determine whether or not the challenged pleading sets forth allegations sufficient to make out the elements of a right to relief).


preparing their legal documents.² The district court also concluded that appellant has no right to perform any particular function in prison while he is incarcerated,³ and that he has no right to employment or any particular employment. Further, the court concluded that the prison has an absolute right to impose reasonable regulations on the operation of this system, and that prohibiting inmates from charging other inmates for their legal services is reasonable.⁴ Thus, the district court properly granted respondent's motion to dismiss.

As for appellant's remaining claims, we conclude that appellant failed to set forth in his pleadings allegations sufficient to establish a right to relief. Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁵


_____, J.
Rose


_____, J.
Gibbons


_____, J.
Hardesty

²Shaw v. Murphy, 532 U.S. 223 (2001).

³See Hoptowit v. Ray, 382 F.2d 1237, 1255 (9th Cir. 1982) (holding that prisoners serving criminal sentences have no right to rehabilitation).

⁴See Turner v. Safley, 482 U.S. 78 (1987) (recognizing that a prison regulation is valid if it is reasonably related to legitimate penological interest).

⁵The clerk of this court shall file appellant's motions and accompanied documents provisionally received on July 29, 2003, and October 9, 2003.

cc: Hon. Michael R. Griffin, District Judge
Curtis L. Downing
Attorney General Brian Sandoval/Carson City
Carson City Clerk