

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANK ORTIZ,
Appellant,
vs.
WARDEN, ELY STATE PRISON, E.K.
MCDANIEL,
Respondent.

No. 42470

FILED

SEP 07 2004

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a petition for a writ of habeas corpus. Seventh Judicial District Court, White Pine County; Steve L. Dobrescu, Judge.

On June 16, 2003, appellant filed a proper person petition for a writ of habeas corpus in the district court, and on July 21, 2003, appellant supplemented the petition. The State filed a motion to dismiss the petition. Appellant submitted a response. On October 16, 2003, the district court dismissed the petition.¹ This appeal followed.


In his petition, appellant challenged his placement in a mental health unit within the prison and its potential impact to later decisions, including parole. Based upon this court's review of the record on appeal, we conclude that the district court did not err in denying appellant's habeas corpus petition. "We have repeatedly held that a petition for a writ

¹In dismissing the petition, the district court struck appellant's response. Although NRS 34.750(4) permits appellant an opportunity to respond to a motion to dismiss, we conclude that no relief is warranted in the instant case because the district court alternatively determined that the response did not provide a viable response to the motion to dismiss.


of habeas corpus may challenge the validity of current confinement, but not the conditions thereof."² Because appellant challenged the conditions of his confinement, appellant's claim was not cognizable in a petition for a writ of habeas corpus.

Having reviewed the record on appeal and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.³ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁴


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

²Bowen v. Warden, 100 Nev. 489, 686 P.2d 250 (1984).

³See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁴We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.

cc: Hon. Steve L. Dobrescu, District Judge
Frank Ortiz
Attorney General Brian Sandoval/Carson City
White Pine County Clerk