

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 42678

FILED

SEP 07 2004

ORDER OF AFFIRMANCE

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

This is a proper person appeal from an order of the district court dismissing a post-conviction petition for a writ of habeas corpus. Seventh Judicial District Court, White Pine County; Dan L. Papez, Judge.


On September 16, 2003, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court challenging a prison disciplinary proceeding that resulted in thirty days loss of phone, canteen, and appliance privileges. On December 16, 2003, the district court dismissed the petition. This appeal followed.


Based upon our review of the record on appeal, we conclude that the district court did not err in dismissing the petition. Because appellant challenged only the conditions of confinement, appellant's claims were not cognizable in a petition for a writ of habeas corpus.¹ Therefore, we affirm the order of the district court.


¹See Bowen v. Warden, 100 Nev. 489, 490, 686 P.2d 250, 250 (1984) ("We have repeatedly held that a petition for writ of habeas corpus may challenge the validity of current confinement, but not the conditions thereof."); see also Sandin v. Conner, 515 U.S. 472 (1995).

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.² Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

cc: Hon. Dan L. Papez, District Judge
Frank Ortiz
Attorney General Brian Sandoval/Ely
White Pine County Clerk

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

³We 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.