


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KENNETH ROBERT CIZEK,
Appellant,
vs.
CHARLES DANIELS, NDOC
DIRECTOR,
Respondent.

No. 83220-COA

FILED

MAR 09 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Kenneth Robert Cizek appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on April 27, 2021. First Judicial District Court, Carson City; James E. Wilson, Judge.

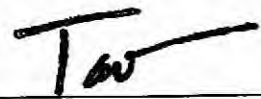
Cizek claimed that the practice of the Nevada Department of Corrections (NDOC) of “precalculating” a sentence expiration date violates the Due Process Clause. Cizek claimed that, in estimating his sentence expiration date, NDOC assumes he will earn the maximum labor credits pursuant to NRS 209.4465(2) each month and then removes those credits whenever he fails to perform labor in a given month. Cizek claims that the removal of credits without any notice or hearing violates the Due Process Clause. NDOC cannot award labor credits for an inmate who has not engaged in any labor, *see Vickers v. Dzurenda*, 134 Nev. 747, 748, 433 P.3d 306, 308 (Ct. App. 2018), and Cizek has not demonstrated he has a protected liberty interest in credits he has not earned. We therefore conclude his due process rights were not violated. *See State, ex rel. Bd. of Parole Comm’rs v. Morrow*, 127 Nev. 265, 271, 255 P.3d 224, 227 (2011) (requiring a protected

liberty interest to be entitled to constitutional due process protections). Accordingly, we conclude the district court did not err by denying this claim.

Cizek also claimed that the application of NRS 209.4465(2) violated his equal protection rights. Cizek claimed he is being housed in administrative segregation, and unlike inmates who are in the general population, he is prevented from working and thus cannot earn labor credits pursuant to NRS 209.4465(2). Cizek claimed this disparate treatment based on housing resulted in a violation of the Equal Protection Clause. Because "inmates are not a suspect class," Cizek's inability to earn labor credits pursuant to NRS 209.4465(2) would not violate the Equal Protection Clause so long as "the challenged classification is rationally related to a legitimate governmental interest." *Vickers*, 134 Nev. at 750, 433 P.3d at 309. The purpose of placing an inmate in administrative segregation is for safety or investigations related to safety. *See* AR 507.01(1)(B). Cizek failed to demonstrate that limiting the ability of such inmates to work is not rationally related to a legitimate governmental interest and, thus, that it violated his equal protection rights. Accordingly, we conclude the district court did not err by denying this claim, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. James E. Wilson, District Judge
Kenneth Robert Cizek
Attorney General/Carson City
Carson City Clerk