STATE OF MINNESOTA
IN COURT OF APPEALS
A08-0252

Darren Don Shannon,
petitioner,
Appellant,

vs.

Joan Fabian,
Respondent.

Filed December 9, 2008
Affirmed
Klaphake, Judge

Washington County District Court
File No. 82-C7-07-004697

Darren Don Shannon, #198924, 5329 Osgood Avenue North, Stillwater, MN 55082 (pro se appellant)

Lori Swanson, Attorney General, Kelly S. Kemp, Assistant Attorney General, 900 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2134 (for respondent)

Considered and decided by Lansing, Presiding Judge; Klaphake, Judge; and Worke, Judge.

U N P U B L I S H E D O P I N I O N

KLAPHAKE, Judge

Appellant Darren Don Shannon, who is incarcerated in a state correctional facility on a third-degree murder conviction, challenges the district court's dismissal of his habeas corpus petition. He claims that he was subject to prison disciplinary proceedings

that violated his due process rights and that the evidentiary standard applied to him in some of those proceedings was incorrect. Because we conclude that appellant has not provided any evidence to suppo these claims and that a new evidentiary standard became effective law after his disciplinary proceedings and does not have retroactive effect, we affirm.

D E C I S I O N

A writ of habeas corpus is a statutory remedy that allows a prison inmate to petition for "relief from imprisonment or restraint." Minn. Stat. § 589.01 (2006). "The scope of inquiry in habeas corpus proceedings is limited to constitutional issues, jurisdictional challenges, claims that confinement constitutes cruel and unusual punishment, and claims that confinement violates applicable statutes." *Loyd v. Fabian*, 682 N.W.2d 688, 690 (Minn. App. 2004), *review denied* (Minn. Oct. 19, 2004). Appellate courts give great weight to the district court's findings in considering a petition for habeas corpus and will uphold those findings if they are reasonably supported by the evidence. *Northwest v. LaFleur*, 583 N.W.2d 589, 591 (Minn. App. 1998), *review denied* (Minn. Nov. 17, 1998). The retroactive application of a new decision is a legal question subject to de novo review. *State v. Houston*, 702 N.W.2d 268, 270 (Minn. 2005).

During appellant's incarceration, he had more than 40 major and minor prison disciplinary rules violations, and other than for five violations that occurred on April 28, 2003, appellant waived evidentiary hearings and pleaded guilty to certain of these disciplinary violations in exchange for dismissal of others. In June 2007, appellant filed a petition for a writ of habeas corpus, claiming that respondent Department of Corrections'

treatment of his disciplinary infractions violated his due process rights because he was subject to punishment of both segregation and loss of good time for the infractions. He also claims that his disciplinary proceedings violated due process because they were subject to the "some evidence" standard rather than the preponderance of evidence standard set forth in *Carrillo v. Fabian*, 701 N.W.2d 763, 777 (Minn. 2005).

The record does not substantiate either of appellant's claims. Respondent is authorized by statute to "prescribe reasonable conditions and rules for [inmates'] employment, conduct, instruction, and discipline." Minn. Stat. § 241.01, subd. 3a(b) (2006). Appellant has offered no evidence that would permit the district court to find that the discipline he received was either unreasonable or violated his constitutional rights. The disciplinary reports in the record show only that appellant was charged with disciplinary infractions and indicate their resolution, including any penalty that appellant received. On their face, these documents do not suggest any procedural irregularities, or unreasonable punishment, and we therefore observe no error in the district court's dismissal of appellant's petition on this claim. *See LaFleur*, 583 N.W.2d at 591.

We also conclude that the evidentiary standard applied to appellant's disciplinary proceedings did not violate due process. First, in only one disciplinary proceeding involving appellant was there an evidentiary hearing, and the record does not establish the standard of proof applied in that hearing. Thus, appellant has failed to show that the evidentiary standard applied to him violated *Carrillo*. 701 N.W.2d at 777. Second, *Carrillo* applies prospectively and does not have retroactive application. *See generally Erickson v. State*, 702 N.W.2d 892, 896 (Minn. App. 2005) ("Generally, new rules of law

are not retroactively applicable to cases on collateral review"); *see also Teague v. Lane*, 489 U.S. 288, 309, 109 S. Ct. 1060, 1074 (1989) ("Application of constitutional rules not in existence at the time a conviction became final seriously undermines the principle of finality which is essential to the operation of our criminal justice system"). Because *Carrillo* was decided in 2005, but appellant's evidentiary hearing was held in 2003, the evidentiary standard adopted in *Carrillo* does not apply to that hearing.

Affirmed.