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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0847**

Cesar De La Garza, petitioner,
Appellant,

vs.

Commissioner of Corrections, Tom Roy,
Respondent.

**Filed December 10, 2018
Affirmed
Reilly, Judge**

Washington County District Court
File No. 82-CV-18-385

Cesar De La Garza, Pontiac, Illinois (pro se appellant)

Lori Swanson, Attorney General, Kelly S. Kemp, Assistant Attorney General, St. Paul, Minnesota (for respondent)

Considered and decided by Schellhas, Presiding Judge; Reilly, Judge; and Florey, Judge.

UNPUBLISHED OPINION

REILLY, Judge

Appellant challenges the district court's denial of his petition for a writ of habeas corpus. Because we discern no abuse of discretion in the district court's decision, we affirm.

FACTS

In 2002, appellant Cesar De La Garza was convicted of second-degree murder and committed to the Commissioner of Corrections for 326 months. *See State v. de la Garza*, No. C9-02-877, 2003 WL 21321387 (Minn. App. June 10, 2003). In 2015, the Minnesota Department of Corrections transferred appellant to an Illinois prison pursuant to the Interstate Corrections Compact, where he remains incarcerated today. In 2017, appellant filed a petition for a writ of habeas corpus in Minnesota requesting a transfer back to the custody of the Minnesota Department of Corrections. The district court denied the habeas petition, determining that the action was improperly venued because the allegations raised in the petition related to conditions of confinement and actions by correctional officers in Illinois, rather than in Minnesota. This appeal follows.

DECISION

Appellant challenges the district court's denial of his habeas corpus petition. "A person imprisoned or otherwise restrained of liberty . . . may apply for a writ of habeas corpus to obtain relief from imprisonment or restraint." Minn. Stat. § 589.01 (2016). A writ of habeas corpus may also be used to challenge conditions of confinement or to raise claims involving fundamental constitutional rights or significant restraints on liberty. *State ex rel. Guth v. Fabian*, 716 N.W.2d 23, 26-27 (Minn. App. 2006), *review denied* (Minn. Aug. 15, 2006). "On appeal from the denial of a petition for a writ of habeas corpus, the district court's findings are entitled to great weight and they will be sustained if they are reasonably supported by the evidence." *Id.* at 26. The burden of proof rests with the petitioner. *Bedell v. Roy*, 853 N.W.2d 827, 829 (Minn. App. 2014), *review denied* (Minn.

Oct. 28, 2014). A district court need not hold a hearing on a habeas corpus petition unless the petitioner has “alleged sufficient facts to constitute a prima facie case for relief.” *Case v. Pung*, 413 N.W.2d 261, 263 (Minn. App. 1987), *review denied* (Minn. Nov. 24, 1987).

“A person may apply for a writ of habeas corpus by petition addressed to the supreme court, court of appeals, or to the district court of the county where the petitioner is detained.” Minn. Stat. § 589.02 (2016). When a habeas petition “is made to a judge whose chambers are not located within the county where the prisoner is detained, that judge shall require proof, by the oath of the applicant or other evidence” demonstrating that venue is proper. Minn. Stat. § 589.03 (2016). “If the proof required by this section is not produced, the application must be denied.” *Id.* Here, it is uncontested that appellant is not incarcerated in Minnesota. The district court requested additional briefing on whether the petition was properly filed in Minnesota. After reviewing the submitted materials, the district court determined that venue was not proper because appellant was not detained in Minnesota when he filed his petition. Based upon a clear reading of section 589.03 that compels the denial of an improperly venued habeas corpus petition, we conclude that the district court did not abuse its discretion by dismissing the petition.

Appellant argues that his habeas corpus petition is proper because his transfer to Illinois was retaliatory. We are not persuaded. A claim for retaliatory transfer requires the plaintiff to show that a prison official’s desire to retaliate against the prisoner for exercising a constitutional right was the motivating factor behind the transfer. *Goff v. Burton*, 91 F.3d 1188, 1191 (8th Cir. 1996). Appellant has not made any such showing here. The Interstate Corrections Compact authorizes the state to transfer an inmate to “an institution within the

territory of another party state [if] necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment.” Minn. Stat. § 241.29, art. IV(a) (2016). While appellant would prefer to be housed in a Minnesota prison, it is well-settled that a prisoner does not have a liberty interest in serving his sentence in any particular state or facility. *See Meachum v. Fano*, 427 U.S. 215, 225, 96 S. Ct. 2532, 2538 (1976); *see also State ex rel. McMaster v. Young*, 476 N.W.2d 670, 673 (Minn. App. 1991), *review denied* (Minn. Dec. 13, 1991). Further, a prisoner does not have a liberty interest in serving his sentence in the state in which he was convicted. *Olim v. Wakinekona*, 461 U.S. 238, 248, 103 S. Ct. 1741, 1747 (1983) (“[A]n interstate prison transfer . . . does not deprive an inmate of any liberty interest protected by the Due Process Clause in and of itself.”).

Appellant has not identified any evidence showing that the Minnesota Department of Corrections violated his constitutional rights.¹ *See Bedell*, 853 N.W.2d at 829 (placing burden on petitioner to show illegality of detention). Because appellant failed to establish grounds supporting his habeas petition, we affirm the district court’s denial of appellant’s habeas petition.

Affirmed.

¹ Appellant argues that he was denied due process, but fails to cite to relevant caselaw supporting his claim. *See State v. Manley*, 664 N.W.2d 275, 286 (Minn. 2003) (considering arguments forfeited when they are unsupported by facts in the record and contain no citation to relevant legal authority).