

This opinion will be unpublished and may not be cited except as provided by Minn. Stat. § 480A.08, subd. 3 (2006).

**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-0765**

James Antoine McGhee, petitioner,
Appellant,

vs.

Terry Carlson, et al.,
Respondents.

**Filed May 20, 2008
Affirmed
Worke, Judge**

Carlton County District Court
File No. 09-CV-06-3971

James Antoine McGhee, OID #149081, MCF–Moose Lake, 1000 Lake Shore Drive, Moose Lake, MN 55767 (pro se appellant)

Lori Swanson, Attorney General, Kelly S. Kemp, Assistant Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101 (for respondents)

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

UNPUBLISHED OPINION

WORKE, Judge

Appellant challenges the district court’s denial of his petition for a writ of habeas corpus to restore his good-time credit. Because the district court did not abuse its discretion, we affirm.

DECISION

Appellant James Antoine McGhee argues that the district court erred in denying him habeas relief for restoration of his good-time credit. A writ of habeas corpus is a statutory civil remedy available “to obtain relief from [unlawful] imprisonment or restraint.” Minn. Stat. § 589.01 (2006); *see also State ex rel. Holm v. Tahash*, 272 Minn. 466, 468, 139 N.W.2d 161, 162-63 (1965) (“Historically, [a writ of habeas corpus] vital purpose was to secure the speedy and immediate release of those illegally imprisoned.”). “We . . . give great weight to the [district] court’s findings in considering a petition for a writ of habeas corpus and will uphold the 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). However, we review questions of law de novo. *State ex. rel. McMaster v. Benson*, 495 N.W.2d 613, 614 (Minn. App. 1993), *review denied* (Minn. Mar. 11, 1993).

The Minnesota Commissioner of Corrections has broad statutory authority “[t]o determine the place of confinement of committed persons in a correctional facility . . . and to prescribe reasonable conditions and rules for their employment, conduct, instruction, and discipline within or outside the facility.” Minn. Stat. § 241.01, subd. 3a(b) (2006). Under this authority, the commissioner is directed by statute to adopt rule standards and procedures for disciplining an offender for improper conduct. Minn. Stat. § 244.04, subds. 1, 2 (2006). An inmate sentenced for crimes committed before 1993 is entitled to have his sentence “reduced in duration by one day for each two days during which the inmate violates none of the disciplinary offense rules promulgated by the

commissioner.” *Id.*, subd. 1. Offenders are required to follow the offender-disciplinary regulations while in prison. *Johnson v. Fabian*, 735 N.W.2d 295, 299 (Minn. 2007). “[A] violation of the Offender Disciplinary Regulations, [] can result in the extension of an inmate’s term of imprisonment.” *Id.* An offender does not have the right to a specific release date, but does have a liberty interest in the statutory sentencing scheme that requires due-process protection. *Carrillo v. Fabian*, 701 N.W.2d 763, 773 (Minn. 2005).

In 1991, appellant was convicted of second-degree intentional murder and sentenced to 333 months in prison with credit for 434 days. Since his incarceration, appellant lost 236 days of good time as a result of disciplinary infractions. Appellant appealed administratively to the commissioner for the restoration of his good time referencing his recent misconduct-free behavior and accomplishments in career and educational programs. The commissioner denied appellant’s request. Appellant then filed a petition for writ of habeas corpus, which the district court denied.

In denying the petition, the district court found that the commissioner followed the policy regarding discipline regulations and that loss of good time was an appropriate remedy. Appellant had a significant number of disciplinary infractions between 1991 and 2004. The loss of good time was an appropriate punishment for his violations of the offender-disciplinary regulations. The district court also found that appellant was given an opportunity to seek restoration of his good time, which was denied pursuant to the commissioner’s legitimate authority. Appellant was allowed to appeal administratively to the commissioner for restoration of his good time. Restoration of good time is completely within the discretion of the commissioner. Minn. Stat. § 244.04, subd. 1a

(2006). Therefore, the commissioner was within her discretion in denying appellant's request. The district court also found that appellant failed to make a showing that he is being illegally detained, and that appellant failed to present evidence that the commissioner violated his right to due process. There is nothing in the record to show that appellant is being illegally detained. Further, because the commissioner followed the disciplinary regulations in revoking good time for appellant's disciplinary infractions, appellant was allowed an opportunity to seek restoration of his good time, and the commissioner was within her discretion in denying appellant's request, appellant's argument that his right to due process has been violated fails. Finally, because no factual disputes are created by appellant's petition, the district court did not err in denying appellant an evidentiary hearing. Because the findings are reasonably supported by the record, the district court did not err in denying appellant's petition for a writ of habeas corpus.

Affirmed.