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**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-448**

Michael Williams, petitioner,
Appellant,

vs.

Minnesota Department of Corrections,
Respondent.

**Filed August 31, 2010
Affirmed
Stauber, Judge**

Washington County District Court
File No. 82CV098147

Michael Williams, Stillwater, Minnesota (pro se appellant)

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

Considered and decided by Halbrooks, Presiding Judge; Stoneburner, Judge; and Stauber, Judge.

UNPUBLISHED OPINION

STAUBER, Judge

On appeal from the denial of his request to commence a habeas corpus action in forma pauperis, appellant argues that the district court abused its discretion by denying his motion because the claims set forth in his habeas corpus petition have a reasonable basis in law and fact and are supported by a good-faith argument that his due-process

rights were violated. Because there is nothing in the record to support appellant's claims, we affirm.

FACTS

Appellant Michael Williams is an inmate at a Minnesota correctional facility. In December 2009, appellant, acting pro se, applied for a writ of habeas corpus in district court, and moved to proceed in forma pauperis. Appellant alleged that on April 18, 2009, a watch commander employed by the Minnesota Department of Corrections (DOC) accused appellant of threatening another correctional officer. Appellant was subsequently charged with violating prison discipline rules prohibiting disorderly conduct and abuse and harassment of others. Following a disciplinary hearing, appellant was found to have violated prison rules, resulting in 30 days of extended incarceration. Appellant claimed that the disciplinary conviction was not supported by any evidence, that someone destroyed a tape recording of hearing testimony, that the hearing officer was not impartial, and that prison staff did not assist him in obtaining evidence for his hearing.

On January 13, 2010, the district court dismissed appellant's habeas corpus action with prejudice on the grounds that it was frivolous or malicious because it had no arguable basis in law or in fact. Appellant subsequently moved for a new trial and filed an amended petition for writ of habeas corpus. The district court denied the petition, finding that appellant has "proffered nothing which would substantiate either (A) the claims delineated in his Habeas Petition or (B) any valid ground to stay entry of the [in forma pauperis] denial or to grant him a new trial." Shortly thereafter, appellant moved

to file a late memorandum of law in support of his motion for a new trial, which was denied. This appeal followed.

D E C I S I O N

A district court must dismiss with prejudice an action brought by an inmate seeking to proceed in forma pauperis if the court finds that the action is frivolous or malicious. Minn. Stat. § 563.02, subd. 3 (2008). “A frivolous claim is without any reasonable basis in law or equity and could not be supported by a good faith argument for [a] . . . modification or reversal of existing law.” *Maddox v. Department of Human Services*, 400 N.W.2d 136, 139 (Minn. App. 1987) (quotation omitted). The district court has broad discretion in allowing in forma pauperis proceedings and will not be reversed absent an abuse of discretion. *Id.*

Appellant argues that the claims set forth in his habeas corpus petition have a reasonable basis in law and fact and are supported by a good-faith argument that his due-process rights were violated. Thus, appellant argues that the district court abused its discretion by denying his motion to proceed in forma pauperis and dismissing with prejudice his challenge to the DOC’s extension of his supervised-release date.

The Commissioner of Corrections has broad statutory authority to determine offenders’ place of confinement and to “prescribe reasonable conditions and rules for their employment, conduct, instruction, and discipline within or outside the [correction] facility.” Minn. Stat. § 241.01, subd. 3a(b) (2008). The legislature has also established that the commissioner may extend an inmate’s term of imprisonment for violating disciplinary rules. Minn. Stat. § 244.05, subd. 1b (2008). But an inmate has a protected

liberty interest in avoiding an extension of his supervised-release date. *Johnson v. Fabian*, 735 N.W.2d 295, 302 (Minn. 2007). Therefore, a prisoner must receive procedural due process before the DOC can extend that date. *Carrillo v. Fabian*, 701 N.W.2d 763, 773 (Minn. 2005).

Appellant argues that he was denied procedural due process because DOC staff (1) failed to assist him in obtaining evidence for his hearing; (2) prematurely destroyed recorded testimony from his discipline hearing in violation of DOC policy; and (3) failed to speak with an unnamed alleged inmate witness and perform further investigation at appellant's direction. But appellant failed to present the district court with the documents that might support the allegations in his habeas corpus petition, such as the hearing officer's report, documents he may have filed with the DOC's discipline unit in this matter, the rule he was found guilty of violating, or any responses he received from DOC staff. We recognize that habeas petitions are the only means inmates have to obtain judicial review of prison sanctions and, therefore, we discourage district courts from summarily denying such petitions as frivolous at an early stage. But without any evidence supporting his claims, appellant's allegations amount to mere argumentative assertions without factual support. *See State v. Manley*, 664 N.W.2d 275, 286 (Minn. 2003) (declining to consider portions of pro se brief that included only argument and were unsupported in the trial record). Accordingly, the district court did not abuse its discretion by denying appellant's motion to proceed in forma pauperis and dismissing with prejudice his challenge to the DOC's extension of his supervised-released date.

Affirmed.