

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM CATO SELLS, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46197

FILED

FEB 16 2006

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying appellant's petition for a writ of mandamus. Seventh Judicial District Court, White Pine County; Steve L. Dobrescu, Judge.

On October 3, 2005, appellant filed a proper person petition for a writ of mandamus in the district court. On October 6, 2005, the district court denied appellant's petition. This appeal followed.

In his petition, appellant challenged his confinement in disciplinary segregation. Appellant argued that the district court should issue a writ to the director of the Nevada Department of Corrections, directing her to show cause why appellant's disciplinary convictions of April 29, 1998,¹ June 16, 1998,² and November 18, 2003,³ should not be vacated and expunged, as such convictions are illegal, in violation of the Nevada State Constitution and the United States Constitution.

"[M]andamus will not lie where there is a plain, speedy, and adequate remedy at law."⁴ Based on our review of the record on appeal, we conclude that the district court did not err in denying appellant's

¹Violation of MJ-22, tampering with any locking device.

²Violation of MJ-22, tampering with any locking device.

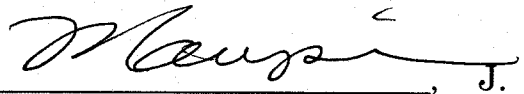
³Violation of MJ-26, possession of contraband.

⁴State v. District Court, 40 Nev. 163, 169, 161 P. 510, 512 (1916) (citations omitted).

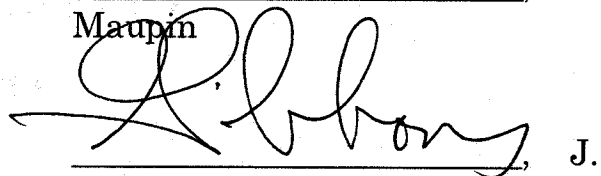
petition. Appellant has an adequate legal remedy available to him.⁵ Further, appellant failed to demonstrate that the director has a legal duty to do what he requests.⁶

Having reviewed the record on appeal and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.⁷

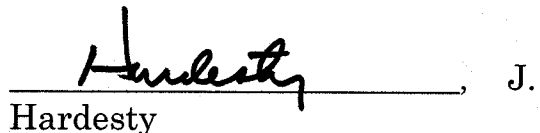
ORDER the judgment of the district court AFFIRMED.⁸

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

⁵See NRS 34.170. Appellant notes in his petition that he presently has a petition for habeas corpus pending in district court, Case No. HC-030-50-04, which is the proper procedure for obtaining relief from alleged illegal disciplinary actions if such resulted in a loss of good time credit.

⁶See NRS 34.160.

⁷See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁸We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.

cc: Hon. Steve L. Dobrescu, District Judge
William Cato Sells Jr.
Attorney General George Chanos/Carson City
White Pine County Clerk