

IN THE SUPREME COURT OF THE STATE OF NEVADA

NATHANIAL JOHNSON,
Appellant,
vs.
DWIGHT NEVEN, WARDEN,
Respondent.

No. 61503

FILED

APR 10 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY H. Anderson
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a petition for a writ of mandamus.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge.

In his petition filed on May 14, 2012, appellant claimed that the Nevada Department of Corrections (NDOC) had improperly calculated his statutory good-time credits and appellant sought an order directing the NDOC to recalculate his release date. A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station or to control an arbitrary or capricious exercise of discretion. NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981). A writ of mandamus will not issue, however, if petitioner has a plain, speedy and adequate remedy in the ordinary course of law. NRS 34.170.

¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

Based upon our review of the record on appeal, we conclude that the district court did not err in determining that appellant was not entitled to relief. NRS 34.724(2)(c) provides that a post-conviction petition for a writ of habeas corpus is the only remedy available to challenge the computation of time served, and therefore, a writ of mandamus is not available to challenge the application and calculation of appellant's statutory credits. Thus, we conclude that the district court did not err in denying the petition for a writ of mandamus.² Accordingly, we

ORDER the judgment of the district court AFFIRMED.³

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Cherry, J.
Cherry

²The district court denied the petition for a writ of mandamus on the merits, but should not have reached the merits of appellant's claim pursuant to NRS 34.724(2)(c). However, we affirm because the district court reached the right result in denying the petition. See Wyatt v. State, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970).

³We 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. Linda Marie Bell, District Judge
Nathanial Johnson
Attorney General/Las Vegas
Eighth District Court Clerk