

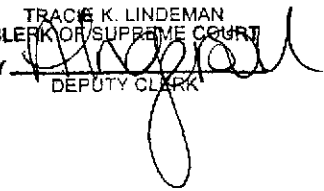
IN THE SUPREME COURT OF THE STATE OF NEVADA

KEVIN FERNANDEZ,
Appellant,
vs.
THE STATE OF NEVADA; THE STATE
OF NEVADA BOARD OF PAROLE
COMMISSIONERS; MICHAEL
KEELER; SUSAN JACKSON; ADAM
ENDEL; AND TONY CORDA,
Respondents.

No. 61757

FILED

FEB 10 2014

TRACEE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order denying a petition for writ of mandamus. First Judicial District Court, Carson City; James Todd Russell, Judge.

Appellant, an inmate, filed a petition for a writ of mandamus, asserting that, in conducting appellant's parole hearing, respondents failed to afford him all of the procedural protections required for parole hearings under NRS 213.131. The district court denied appellant's petition because the court concluded that respondents had complied with NRS 213.131's express requirements. On appeal, appellant argues that NRS 213.131 is ambiguous and should be interpreted to require respondents to provide inmates being considered for parole with specific notice of what evidence will be considered at their parole hearings, a chance to view and object to the evidence, a written statement of the specific reasons for any denial of parole and the evidence relied on in reaching the decision, and the opportunity to appeal to a higher authority.

Having considered appellant's arguments and the language of NRS 213.131, we disagree with appellant that this statute is ambiguous

and requires interpretation. *See Miller v. Burk*, 124 Nev. 579, 590, 188 P.3d 1112, 1120 (2008) (explaining that when a statute is clear on its face, we will not go beyond its language “to create an ambiguity when none exists”). By its terms, NRS 213.131(9) requires the Board of Parole Commissioners to give an inmate who may be denied parole “reasonable notice of the meeting and the opportunity to be present at the meeting.” Thus, on its face, NRS 213.131(9) requires the Board to notify the inmate that a meeting will be held regarding his or her parole and that he or she has the opportunity to be present at that meeting. Nothing in NRS 213.131(9) requires the notice to include information about what evidence will be considered at the hearing, and we will not read such a requirement into the statute. *See Miller*, 124 Nev. at 590, 188 P.3d at 1120.

Similarly, NRS 213.131(10) requires the Board to allow the inmate to have a representative present at the meeting and to speak or have the representative speak on his or her behalf. It does not require the Parole Board to present evidence or to allow the inmate to present evidence. *See id.* Nor does NRS 213.131(11) require the Parole Board to provide a specific statement regarding the reasons for denial or the evidence on which it relied in reaching its decisions. Instead, the Board must notify the inmate of its decision and provide recommendations “to improve the possibility of granting parole” in subsequent hearings. NRS 213.131(11). Finally, nothing in NRS 213.131 provides an inmate the opportunity to appeal the Parole Board’s decision to a higher authority.

Here, appellant was notified that the Parole Board would consider him for parole, was present at the meeting, had the opportunity to speak on his own behalf, and received written notice of the Parole Board’s decision, including specific recommendations for improving his

chances of being granted parole at a future hearing. Because appellant did not demonstrate that the Parole Board was compelled by law to provide any additional procedural protections, the district court did not abuse its discretion by denying appellant's petition for mandamus. See NRS 34.160 (explaining that a writ of mandamus may be issued to compel the performance of an act that the law requires); *Kay v. Nunez*, 122 Nev. 1100, 1105, 146 P.3d 801, 805 (2006) ("When reviewing a district court order resolving a petition for mandamus relief, this court considers whether the district court has abused its discretion."). Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

cc: Hon. James Todd Russell, District Judge
Kevin Lynn Fernandez
Attorney General/Dep't of Public Safety/Carson City
Carson City Clerk

¹In light of this order, we deny as moot appellant's November 27, 2013, motion for an injunction pending appeal. We also deny appellant's December 27, 2013, motion for service of a copy of respondents' response to the motion for an injunction, as respondents did not file a response to that motion.