

IN THE SUPREME COURT OF THE STATE OF NEVADA

RODOLFO LEON,
Appellant,
vs.
JACK PALMER, WARDEN; BACA,
WARDEN; KAREN GEDNEY; DAVID
MARR; VERONICA VAN HORN; AND
LISA WALSH,
Respondents.

No. 62420

FILED

MAY 14 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malme
DEPUTY CLERK

ORDER OF AFFIRMANCE

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

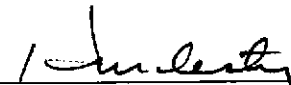
Appellant filed a petition for a writ of mandamus claiming that respondents are denying him surgery for a hernia and an aortic aneurism in violation of the Eighth and Fourteenth Amendments of the United States Constitution. Respondents opposed the petition, arguing that appellant has a speedy and adequate remedy in the form of a 42 U.S.C. § 1983 civil rights suit. Respondents further argued that appellant has not shown that he has suffered deliberate indifference or that his due process rights have been violated through the prison's grievance system. The district court denied appellant's writ petition, and this appeal followed.

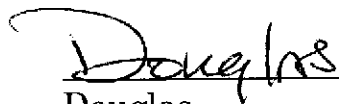
Having considered appellant's proper person appeal statement and the record on appeal, we conclude that the district court acted within its discretion in denying appellant's petition for writ of mandamus. NRS 34.160 (explaining that a writ of mandamus may be issued to compel the performance of an act that the law requires); *Kay v. Nunez*, 122 Nev. 1100,

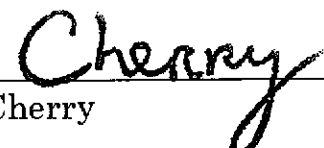
1105, 146 P.3d 801, 805 (2006) (“When reviewing a district court order resolving a petition for mandamus relief, this court considers whether the district court has abused its discretion.”).

A writ of mandamus is an extraordinary remedy, and writ relief is generally available only when there is no plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170; *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991). The district court found in its order that appellant has a speedy and adequate remedy in the ordinary course of law in the form of a § 1983 civil rights suit. In his proper person appeal statement, appellant provides no argument as to why he could not file his claims in a § 1983 civil rights suit. Accordingly, we conclude that the district court did not abuse its discretion in denying appellant’s petition for writ relief, and we

ORDER the judgment of the district court AFFIRMED.¹


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Cherry

¹We have reviewed all of appellant’s arguments on appeal, and conclude that they lack merit.

cc: Hon. James Todd Russell, District Judge
Rodolfo Leon
Attorney General/Carson City
Carson City Clerk