

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MATTHEW SCOTT WHITE,
Appellant,
vs.
THE STATE OF NEVADA,
DEPARTMENT OF CORRECTIONS;
WARDEN "RENEE BAKER"; AND
ASSOCIATE WARDEN "BURNS",
Respondents.

No. 66212

FILED

MAR 23 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a pro se appeal from a district court order dismissing a petition for a writ of mandamus. Seventh Judicial District Court, White Pine County; Gary Fairman, Judge.

Appellant filed the underlying district court petition for a writ of mandamus in an effort to compel respondents to allow him to move up the prison level system so that he can obtain prison employment and earn work credits towards an early release. Respondents subsequently moved to dismiss the petition on several grounds, including the assertion that petitioner had plain, speedy and adequate legal remedies available that precluded writ relief in the form of the inmate grievance process and the filing of a civil action. Appellant opposed that motion, but the district court agreed with the arguments advanced by respondents and dismissed the petition. This appeal followed.

On appeal, appellant argues, among other things, that a civil lawsuit could take up to four years to resolve, and thus, does not constitute a plain and speedy remedy. The district court's decision to deny


a writ petition is generally reviewed for an abuse of discretion. *Reno Newspapers, Inc. v. Haley*, 126 Nev. ___, ___, 234 P.3d 922, 924 (2010).

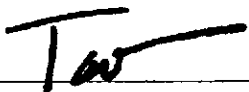
A writ of mandamus is available only when there is no plain, speedy and adequate remedy at law. NRS 34.170; *see also Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008) (explaining that writ relief is generally not available if the petitioner has a speedy and adequate legal remedy). In *Washoe County v. City of Reno*, 77 Nev. 152, 155, 360 P.2d 602, 603 (1961), the Nevada Supreme Court held that, when an action at law is available to compel the performance of an alleged duty, a plain remedy other than mandamus is available. The court further held that, in determining whether mandamus relief is available, the issue is not whether mandamus relief will be "easier or more expeditious," as mandamus relief generally lies only when no other remedy is available, and that "[a] remedy does not fail to be speedy and adequate, because, by pursuing it through the ordinary course of law, more time probably would be consumed than in a mandamus proceeding." *Id.* at 156, 360 P.2d at 603.

In light of the authority set forth above, to the extent that appellant argues that the filing of a civil action presenting the issues delineated in his district court petition for mandamus relief would be neither plain nor speedy based on the time it would take him to prosecute that action, that argument is without merit. *See id.* We therefore conclude that appellant had a plain, speedy and adequate remedy available in the form of a civil action, which precluded writ relief, *see* NRS 34.170; *see also Int'l Game Tech., Inc.*, 124 Nev. at 197, 179 P.3d at 558, and thus, the district court did not abuse its discretion in dismissing

appellant's mandamus petition. *Reno Newspapers*, 126 Nev. at ___, 234 P.3d at 924. Accordingly, we affirm the district court's decision.¹

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Gary Fairman, District Judge
Matthew Scott White
Attorney General/Carson City
Attorney General/Ely
White Pine County Clerk

¹In light of our resolution of this matter, we need not consider appellant's remaining appellate arguments.