

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RODGER EINSTEIN HAYWARD,  
Appellant,  
vs.  
WARDEN QUENTIN BURNS,  
Respondent.

No. 70259

**FILED**

NOV 17 2016

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from an order of the district court denying a petition for a writ of mandamus.<sup>1</sup> Eleventh Judicial District Court, Pershing County; Jim C. Shirley, Judge.

Appellant Rodger Einstein Hayward argues the district court erred in denying his March 8, 2016, petition without considering the merits of his claims. Hayward asserts the Nevada Department of Corrections improperly failed to award him credits against his sentence, failed to properly credit time he has already served, and failed to appropriately respond to grievances regarding this issue.

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

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<sup>1</sup>This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

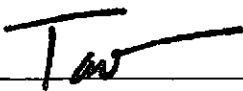
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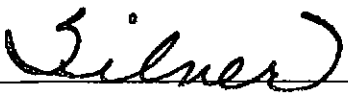
plain, speedy and adequate remedy in the ordinary course of law. NRS 34.170.

The record reveals the district court correctly concluded Hayward was not entitled to mandamus relief because he must raise challenges to the computation of his time served in a postconviction petition for a writ habeas corpus. See NRS 34.724(2)(c). Accordingly, the district court did not err in denying the petition for a writ of mandamus, and we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Jim C. Shirley, District Judge  
Rodger Einstein Hayward  
Attorney General/Carson City  
Pershing County Clerk