

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ALFRED CENTOFANTI,  
Appellant,  
vs.  
ROMEO ARANAS,  
Respondent.

No. 68871

**FILED**

DEC 14 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Alfred Centofanti appeals from an order denying his petition for writ of mandamus. Eighth Judicial District Court, Clark County; Joseph Hardy, Jr., Judge.

In April 2015, Centofanti, an inmate at High Desert State Prison ("HDSP"), filed a petition for writ of mandamus. Centofanti asked the district court to order Romeo Aranas, Medical Director of Nevada Department of Corrections ("NDOC"), to "[p]erform his duties as set forth in NRS 209.131 and AR 601 and 60[2] as the inmates at HDSP are at risk[,] for the current state of the healthcare delivery system at the facility is in violation of the NRS, ARs and the Nevada and United States constitutions."

Aranas did not answer Centofanti's petition. In August 2015, without a hearing, the district court denied Centofanti's petition for writ of mandamus. The district court found Centofanti "could, *inter alia*, assert a constitutional tort or a civil rights claim pursuant to 42 U.S.C. §1983, meaning that he has plain, speedy, and adequate remedies in the ordinary course of law."<sup>1</sup>

On appeal, Centofanti argues the district court 1) abused its discretion by concluding Centofanti had an adequate remedy at law and 2)

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<sup>1</sup>We do not recount the facts except as necessary to our disposition.

denied Centofanti due process by ruling without an oral hearing. We disagree on both points.

Under NRS 34.160, “[a] writ of mandamus is available to compel the performance of an act that the law requires . . . or to control an arbitrary or capricious exercise of discretion.” *Int’l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). Where there is no “plain, speedy and adequate remedy in the ordinary course of law,” extraordinary relief may be available. NRS 34.170; *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991). The mere existence of a potential alternate cause of action does not necessarily prevent the remedy of mandamus, because “[t]he core of the problem in each case must be ascertained” to determine whether the alternate action would answer the central question of the case and provide an adequate remedy. *State v. State Bd. of Exam’rs*, 78 Nev. 495, 497-99, 376 P.2d 492, 493-94 (1962). We review the denial of a writ petition for an abuse of discretion. *Reno Newspapers, Inc. v. Sheriff*, 126 Nev. 211, 214, 234 P.3d 922, 924 (2010).

The district court’s order denying Centofanti’s petition specifically stated that an action under 42 U.S.C. § 1983 would be an adequate remedy for Centofanti. Section 1983 protects individuals from “the deprivation of any rights, privileges, or immunities secured by the Constitution” and other federal laws. 42 U.S.C. § 1983. The Eighth Amendment to the United States Constitution requires that prison officials “ensure that inmates receive adequate food, clothing, shelter, and medical care” and take “reasonable measures to guarantee the safety of the inmates.” *Farmer v. Brennan*, 511 U.S. 825, 832 (1994) (internal quotation marks omitted).

An action brought under § 1983 would provide an adequate legal remedy for Centofanti's allegations, the core of which is that NDOC is failing to provide adequate medical care to its inmates. § 1983 protects individuals from deprivation of their rights, including an inmate's right to adequate medical care. Though Centofanti argues his claims are based on state law, his petition cites both state and federal law in his assertion that NDOC's healthcare falls below an acceptable minimum standard. In addition, NDOC's Administrative Regulations 601 and 602 are not relevant to this case, as they relate to the Medical Director's duties to set up committees and collect statistics monitoring healthcare. And, while a writ petition may be faster than a § 1983 action, "the fact that mandamus would give an easier or more expeditious remedy is not the criterion." *Washoe Cty. v. City of Reno*, 77 Nev. 152, 156, 360 P.2d 602, 603 (1961). Therefore, it was not an abuse of discretion for the district court to find Centofanti had an adequate remedy at law.

Centofanti next argues that the district court denied him due process, as it reached a decision without an oral hearing. Under NRS 34.260, "[i]f no answer be made [to a petition], the case shall be heard on the papers of the applicant." However, the use of the term "heard" does not necessarily require an oral hearing. The Nevada Supreme Court has recognized that "[t]he majority of courts to have considered the question have concluded that the use of the term "hearing" in a statute does not confer a [mandatory] right to oral argument [or oral presentation] unless additional statutory language or the context indicates otherwise." *State v. Beaudion*, 131 Nev. \_\_\_, \_\_\_, 352 P.3d 39, 44 (2015) (quoting *Lewis v. Superior Court*, 970 P.2d 872, 884

(Cal. 1999)). Having considered the additional language within NRS 34.260,<sup>2</sup> we conclude no oral argument was required under the statute.

Though there is no statutory requirement for an oral hearing, we must also consider whether the district court was required to hold a hearing under the general principles of due process. “The fundamental requisite of due process is the opportunity to be heard.” *Browning v. Dixon*, 114 Nev. 213, 217, 954 P.2d 741, 743 (1998). “To determine appropriate procedure, we must consider: (1) the private interest affected; (2) the risk of erroneous deprivation by the procedures used; and (3) the government interest to be protected in light of the fiscal and administrative burdens imposed by additional procedural safeguards.” *Burleigh v. State Bar of Nev.*, 98 Nev. 140, 145, 643 P.2d 1201, 1204 (1982).

The district court was not required to hold an oral hearing in this case. Though the district court’s ruling denied Centofanti’s petition, the ruling does not prevent Centofanti from bringing another type of action against Aranas. In addition, the lack of an oral hearing did not create a substantial risk that Centofanti’s petition was denied erroneously. Though Centofanti argues the district court sua sponte raised issues of law in its ruling without giving Centofanti a chance to respond, this is not accurate. By asserting “there is no plain, speedy, and adequate remedy to address this situation,” Centofanti’s petition raises the issues on which the district court ruled. Holding an oral hearing would not have benefitted Centofanti, as he would have been unable to add to the district court’s analysis of this legal

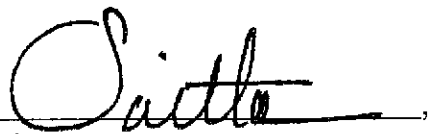
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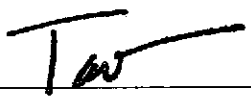
<sup>2</sup>NRS 34.260 also provides that when an answer is filed “the court shall proceed to hear *or fix a day for hearing the argument* of the case.” (Emphasis added.) This specific language indicates additional procedures, such as an oral hearing, may be required in cases where an answer is filed.


issue. Finally, it would place an unreasonable burden on the courts to require the district court to hold a hearing on every petition, regardless of its merit.

In this case, Centofanti was afforded due process through the district court considering his submitted petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, Sr. J.  
Saitta

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

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

cc: Hon. Joseph Hardy, Jr., District Judge  
Breedon & Associates  
Attorney General/Carson City  
Attorney General/Las Vegas  
Eighth District Court Clerk