

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAMIE P. HARRIS,
Petitioner,
vs.
STATE OF NEVADA PAROLE BOARD,
Respondent.

No. 74228

FILED

APR 11 2018

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

ORDER DENYING PETITION

This original petition for a writ of mandamus and/or prohibition challenges the Board of Parole Commissioners' denial of parole for Jamie P. Harris. Harris asserts the Board improperly applied two aggravating factors when it considered him for parole in 2017. He specifically asserts the Board should not have applied the following two aggravating factors: "Repetitive similar criminal conduct: property offense as a juvenile" and "Crime was targeted against a child or person at a greater vulnerability because of age/disability." He further asserts that since he entered his guilty plea the risk assessment process has changed, which has worked to his disadvantage. Harris seeks a writ of mandamus directing the Board to vacate the denial of his parole and conduct a new parole hearing. He further seeks an order prohibiting the Board from using statutes, guidelines, or standards that "impose a greater punishment and/or works to a significant disadvantage than the laws prescribed at the time of the offense."

A writ of mandamus is available to compel the performance of an act which the law requires as a duty resulting from an office, trust, or station, NRS 34.160, or to control a manifest abuse or arbitrary or capricious exercise of discretion, *Round Hill Gen. Improvement Dist. v.*

Newman, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). A writ of prohibition may issue to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the jurisdiction of the district court. NRS 34.320. Neither writ will issue if the petitioner has a plain, speedy and adequate remedy in the ordinary course of law. NRS 34.170; NRS 34.330. Petitions for extraordinary writs are addressed to the sound discretion of the court, *see State ex rel. Dep't of Transp. v. Thompson*, 99 Nev. 358, 360, 662 P.2d 1338, 1339 (1983), and the “[p]etitioner[] carr[ies] the burden of demonstrating that extraordinary relief is warranted,” *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).


Because there is no applicable statutory vehicle through which Harris may challenge the Board’s actions, we consider whether the Board’s actions warrant issuance of a writ of mandamus.¹ *See Anselmo v. Bisbee*, 133 Nev. ___, ___, 396 P.3d 848, 850 (2017). “[G]iven its discretionary language, Nevada’s parole statute creates no protectable liberty interest sufficient to invoke the Due Process Clause.” *Id.* (internal quotation marks omitted). And “this court generally will not review the evidence supporting a decision of the Board.” *Id.* at ___, 396 P.3d at 851. However, “eligible Nevada inmates have a statutory right to be considered for parole by the Board,” and “[t]his court cannot say that an inmate receives proper consideration when the Board’s decision is based in part on an inapplicable aggravating factor.” *Id.* at ___, 396 P.3d at 853.


Contrary to Harris’ assertion, when determining whether to grant parole, the Board is permitted to consider the two aggravating factors

¹A writ of prohibition is not an appropriate vehicle for the relief Harris is seeking.

Harris challenges. See NAC 213.518(2)(h), (n). And Harris has not demonstrated the Board applied these aggravators to him in contradiction to its guidelines. Finally, even assuming the risk assessment process has changed since Harris was imprisoned, Harris does not have a statutory right to be assessed under previous standards of assessment, see NRS 213.1214(3), and he has not demonstrated that the changes have infringed upon his right to receive proper consideration for parole. Because Harris has not demonstrated he has been denied his right to be considered for parole by the Board, we conclude extraordinary relief is not warranted and we

ORDER the petition DENIED.

, C.J.
Silver

, J.
Tao

, J.
Gibbons

cc: Jamie P. Harris
Attorney General/Carson City
Eighth District Court Clerk