

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARC MCCURDY,
Appellant,
vs.
BRIAN WILLIAMS, WARDEN,
Respondent.

No. 71546

FILED

MAY 16 2017

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

ORDER OF AFFIRMANCE

Marc McCurdy appeals from a district court order denying the postconviction petition for a writ of habeas corpus he filed on September 20, 2016.¹ Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

McCurdy claims the district court erred by denying his petition for a writ which sought an order directing the Director of the Nevada Department of Corrections to assign him to a minimum security facility. McCurdy argues the statutory language of NRS 484C.410(1) unambiguously and compulsorily requires he “must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.”

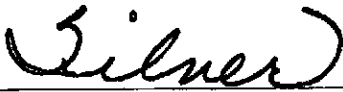
The district court found McCurdy’s claim was not cognizable in a petition for writ of habeas corpus because it was not a claim his conviction was obtained, or the sentence imposed, in violation of the United States Constitution, the Nevada Constitution, or Nevada law and


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

it was not a claim that the time he has served pursuant to his judgment of conviction was improperly computed.

We conclude the district court did not err by denying McCurdy's petition. See NRS 34.724(1). We note a petition for a writ of mandamus is an appropriate remedy to seek the performance of an act the law requires as a duty resulting from an office, trust, or station, NRS 34.160, and a petition for a writ of habeas corpus "[i]s the only remedy available to . . . challenge the computation of time . . . served pursuant to a judgment of conviction," NRS 34.724(2)(c). And we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Michelle Leavitt, District Judge
Marc McCurdy
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk