

IN THE SUPREME COURT OF THE STATE OF NEVADA

EMERSON JOINER,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
ELIZABETH GOFF GONZALEZ,
DISTRICT JUDGE,
Respondents,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 70045

FILED

FEB 17 2017

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

ORDER GRANTING PETITION FOR WRIT OF MANDAMUS

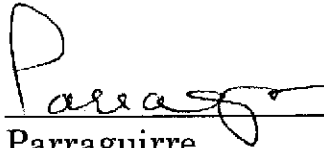
This original petition for a writ of certiorari, mandamus, or, alternatively, prohibition challenges the district court's denial of petitioner Emerson Joiner's motion to dismiss.


Joiner seeks to dismiss his pending prosecution for violating the conditions of his lifetime supervision as a sex offender. Lawful conditions of lifetime supervision are limited to those expressly enumerated in the supervision statute, NRS 213.1243. *McNeill v. State*, 132 Nev., Adv. Op. 54, 375 P.3d 1022, 1026 (2016). The charge against Joiner alleges in a single count that he violated the terms of his lifetime supervision by failing to enroll in sex offender counseling, committing the crime of battery, and failing to cooperate with his supervisor. These conditions are not included among those enumerated in NRS 213.1243 and thus are unlawful. Joiner may not be prosecuted for violating conditions that were unlawfully imposed, *see McNeill*, 132 Nev., Adv. Op. 54, 375 P.3d at 1026. While Joiner has other legal remedies, we exercise our

discretion to issue a writ of mandamus because Joiner is clearly entitled to dismissal of the charge such that his continued prosecution would result in a miscarriage of justice and judicial economy militates in favor of mandamus relief, *see* NRS 34.160; *McNeill*, 132 Nev., Adv. Op. 54, 375 P.3d at 1026; *State v. Babayan*, 106 Nev. 155, 175-76, 787 P.2d 805, 819-20 (1990).¹ Accordingly, we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to grant Joiner's motion to dismiss.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Stiglich

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Gary A. Modafferi
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹As *McNeill* is dispositive, we decline to reach Joiner's remaining claims for relief. *See Lovie v. State*, 108 Nev. 488, 490 n.3, 835 P.2d 20, 22 n.3 (1992). We reject the State's contention that this petition should be denied as moot because the underlying case remains open. And we reject Joiner's request to examine the scope of his lifetime supervision provisions as applied in a separate pending case.