

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LAWRENCE RONALD VALENTINE,
Appellant,
vs.
THE STATE OF NEVADA; OFFICE OF
THE ATTORNEY GENERAL; AND
BRIAN WILLIAMS, WARDEN HDSP,
Respondents.

No. 77516-COA

FILED

OCT 16 2019

ELIZABETH L. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Lawrence Ronald Valentine appeals from an order of the district court denying a petition for a “Writ of Prohibition and Habeas Corpus Seeking Immediate Release from Custody Due to No Prosecution – Pursuant to 28 U.S.C. Section 1455” filed on August 7, 2018. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

The district court construed Valentine’s petition as a postconviction petition for a writ of habeas corpus and denied it as procedurally barred. However, Valentine did not file his petition pursuant to NRS 34.720 et. seq.; rather, he sought a writ of prohibition or habeas relief pursuant to federal statute. Therefore, we conclude the district court erred by construing the petition as a postconviction petition for a writ of habeas corpus. Nevertheless, we affirm the district court’s denial of the petition because the district court reached the correct result, albeit for the wrong reason. *See Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970).

Valentine claimed that the State was without authority to prosecute him because the Attorney General’s Office does not have the authority to prosecute a criminal case by criminal information. A writ of

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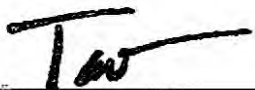
prohibition may issue to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the jurisdiction of the district court. NRS 34.320. The writ will not issue if petitioner has a plain, speedy and adequate remedy in the ordinary course of law. NRS 34.330.

First, because the proceedings in district court concluded in 2016 with Valentine being convicted, there are no proceedings of the district court to be arrested. Therefore, Valentine was not entitled to relief under a writ of prohibition. Second, even assuming Valentine could proceed under a writ of prohibition, his claim lacked merit. NRS 228.120(5)(b) allows the Attorney General's Office to prosecute a person pursuant to an information. Therefore, Valentine was not entitled to relief.

Next, Valentine argued his case should be removed from state court, and be dismissed, based on 28 U.S.C. § 1455. This claim lacked merit. 28 U.S.C. § 1455 creates a procedure for removing state criminal proceedings to federal court. It must be filed in a federal district court, *see* 28 U.S.C. § 1455(a), and must be filed within 30 days of the arraignment in state court, *see* 28 U.S.C. § 1455(b). Valentine did not file the removal in federal court and did not file it within 30 days of arraignment. Further, this procedure would not allow the criminal proceedings to be dismissed. Therefore, Valentine was not entitled to relief. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Michael Villani, District Judge
Lawrence Ronald Valentine
Attorney General/Las Vegas
Eighth District Court Clerk