

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CLYDE LEWIS, A/K/A LOUIS
RANDOLPH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 78451-COA

FILED

DEC 27 2019

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

ORDER OF AFFIRMANCE

Clyde Lewis appeals from an order of the district court denying a petition for a writ of mandamus or prohibition. Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

In his February 5, 2019, petition, Lewis claimed the jury, rather than the trial court, should have heard evidence presented at the penalty hearing and decided upon the sentence he was to receive.

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 lower court exercising its judicial functions, when such proceedings are in excess of the jurisdiction of the lower court. NRS 34.320. A writ of mandamus or prohibition will not issue, however, if the petitioner has a plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170; NRS 34.330. "We generally review a district court's grant or denial of writ relief for an abuse of discretion." *Koller v. State*, 122 Nev. 223, 226, 130 P.3d 653, 655 (2006). To

warrant an evidentiary hearing, petitioner must raise claims supported by specific factual allegations that, if true and not belied by the record, would entitle him to relief. *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

Based upon our review of the record on appeal, Lewis failed to demonstrate the district court abused its discretion by denying the petition. Lewis' claim challenged his judgment of conviction. However, a postconviction petition for a writ of habeas corpus is the exclusive remedy for raising a postconviction challenge to the validity of a judgment of conviction. NRS 34.724(2)(b). Accordingly, Lewis must raise his challenge to the judgment of conviction in a postconviction petition for a writ of habeas corpus filed in the district court.¹ See NRS 34.724(1); NRS 34.738(1). Because Lewis had a plain, speedy, and adequate remedy, the district court did not abuse its discretion by denying the petition without conducting an evidentiary hearing. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

¹We express no opinion as to whether Lewis could meet the procedural requirements of NRS chapter 34.

cc: Hon. Stefany Miley, District Judge
Clyde Lewis
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk