

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KEVIN DWAYNE BROOKS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 78730-COA

FILED

MAR 20 2020

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

ORDER OF AFFIRMANCE

Kevin Dwayne Brooks appeals from an order of the district court denying a petition for a writ of mandamus. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

In his March 26, 2019, petition, Brooks claimed the Board of Parole Commissioners acted arbitrarily and capriciously when it denied his request for parole. 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 mandamus will not issue, however, if the petitioner has a plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170. "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).


"Parole is an act of grace in Nevada, and this court will not disturb a decision to deny parole for any reason authorized by statute." *Anselmo v. Bisbee*, 133 Nev. 317, 323, 396 P.3d 848, 853 (2017). 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.*

Brooks alleged the Board acted in an arbitrary and capricious manner when it denied his request for parole, but he did not identify any reasons why the Board denied his request for parole nor any improper factor that the Board may have considered. Therefore, Brooks failed to meet his burden of demonstrating that extraordinary relief was warranted. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). Accordingly, we conclude the district court did not abuse its discretion by denying Brooks’ petition, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Douglas W. Herndon, District Judge
Kevin Dwayne Brooks
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk