

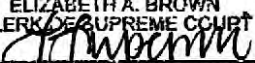
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MALCOLM GRAY,
Appellant,
vs.
THE STATE OF NEVADA
DEPARTMENT OF CORRECTIONS;
AND THE STATE OF NEVADA,
Respondents.

No. 79521-COA

FILED

APR 27 2020

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

ORDER OF AFFIRMANCE

Malcolm Gray appeals from an order of the district court denying a petition for a writ of mandamus and supplement filed on March 11, 2019. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

Gray was sentenced in 1995 to two consecutive terms of life in prison with the possibility of parole. Gray claimed his 2014 parole hearing for his first term was postponed for five months while the Nevada Department of Corrections (NDOC) considered his request to aggregate his sentences. NDOC denied Gray's request. Gray was granted parole to his consecutive sentence at his rescheduled parole hearing. Frustrated that his parole eligibility date no longer corresponds with his arrest date, Gray petitioned the district court for mandamus relief.

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.

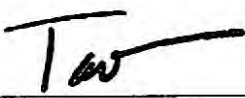
Gray petitioned the district court for an order directing NDOC to recalculate his parole eligibility date to coincide with his arrest date. The district court found Gray had a plain, speedy, and adequate remedy in the ordinary course of law: His claim was a challenge to the computation of time served and, thus, had to be raised in a postconviction petition for a writ of habeas corpus. See NRS 34.724(2)(c). As a separate and independent ground to deny relief, the district court also determined Gray's claim lacked merit. Gray's parole eligibility date for his consecutive term was based on when he began serving that term. The district court's findings are supported by the record.

To the extent Gray claimed the Nevada Board of Parole Commissioners (Board) violated his due process rights by calculating his parole eligibility, Gray was not entitled to relief. As proof of his claim, Gray pointed to a letter from the Board. However, the letter merely explained that the Board set the *effective* date of Gray's parole. It did not state or imply that the Board set his eligibility date.

For the foregoing reasons, we conclude the district court did not err by denying Gray's petition, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Tierra Danielle Jones, District Judge
Malcolm Gray
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk