

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JORGE MARIO PINEDA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 79656-COA

FILED

JUN 12 2020

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

ORDER OF AFFIRMANCE

Jorge Mario Pineda 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 August 16, 2019, petition, Pineda claimed the Nevada Board of Parole Commissioners improperly denied his request for parole. Pineda contended the Board did not follow its own internal guidelines and acted in an arbitrary and capricious manner.

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).

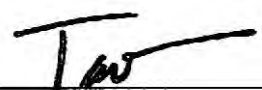
"Parole is an act of grace in Nevada, and this court will not disturb a decision to deny parole for any reason authorized by statute."

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.*

The record demonstrated the Board denied Pineda’s request for parole due to the impact of the crimes on the victim or community and because the crimes targeted a child or person of greater vulnerability. Pineda failed to demonstrate the Board did not follow its own internal guidelines when it denied his request for parole and he did not demonstrate that the Board acted in an arbitrary and capricious manner. Therefore, Pineda 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 Pineda’s petition, and we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

¹We have considered Pineda’s notice that was filed with this court on March 26, 2020, and we conclude no relief is warranted.

cc: Douglas W. Herndon, District Judge
Jorge Mario Pineda
Attorney General/Carson City
Attorney General/Las Vegas
Clark County District Attorney
Eighth District Court Clerk