

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

J.D. CALDWELL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 82595-COA

**FILED**

OCT 21 2021

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

J.D. Caldwell appeals from an order of the district court denying a petition for a writ of mandamus or prohibition.<sup>1</sup> Eighth Judicial District Court, Clark County; Jasmin D. Lilly-Spells, Judge.

In his December 13, 2018, petition, Caldwell claimed he was entitled to additional presentence credits. 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

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<sup>1</sup>Caldwell also stated in his notice of appeal that he is appealing from an order denying a petition for a writ of habeas corpus. However, the record before this court contains neither a petition for a writ of habeas corpus nor an order denying such a petition. Therefore, Caldwell is not entitled to relief based upon this portion of his appeal.

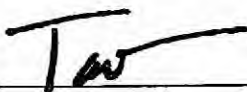
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adequate remedy in the ordinary course of law. NRS 34.170, NRS 34.330. "Petitioners carry the burden of demonstrating that extraordinary relief is warranted." *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). "We generally 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).

"[A] claim for credit for presentence incarceration is a challenge to the validity of the judgment of conviction and sentence, which may be raised on direct appeal or in a post-conviction petition for a writ of habeas corpus." *Griffin v. State*, 122 Nev. 737, 739, 137 P.3d 1165, 1166 (2006). Because a request for additional presentence credits may be raised on direct appeal or in a postconviction petition for a writ of habeas corpus, Caldwell therefore had a plain, speedy, and adequate remedy with which to challenge the sentencing court's decision concerning his presentence credits.<sup>2</sup> Accordingly, we conclude the district court did not abuse its discretion by denying Caldwell's petition for a writ of mandamus or prohibition, and we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

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<sup>2</sup>We express no opinion as to whether Caldwell could meet the procedural requirements of NRS chapter 34.

cc: Hon. Jasmin D. Lilly-Spells, District Judge  
J.D. Caldwell  
Attorney General/Carson City  
Attorney General/Las Vegas  
Eighth District Court Clerk