

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID LEVOYD REED,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CLARK,
Respondent,

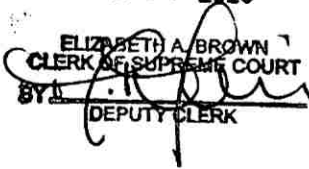
and

BRIAN E. WILLIAMS, SR., WARDEN;
AND THE STATE OF NEVADA
DEPARTMENT OF CORRECTIONS,
Real Parties in Interest.

No. 85566

FILED

APR 21 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DENYING PETITION

This original petition for a writ of mandamus seeks an order directing the respondent to order the Nevada Department of Corrections (NDOC) to recalculate petitioner David Levoyd Reed's time served and credits pursuant to this court's decision in *Reed v. Williams*, No. 82059, 2021 WL 4237751 (Nev. Sep. 16, 2021) (Order Affirming in Part, Reversing in Part and Remanding).¹


Traditionally, a writ of mandamus is available to compel the performance of an act which the law requires as a duty resulting from an office or to control a manifest abuse or arbitrary or capricious exercise of discretion. NRS 34.160; *Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). A manifest abuse of discretion occurs when there is a clearly erroneous interpretation or application of the law, and "[a]n arbitrary or capricious exercise of discretion is one founded on prejudice or preference rather than on reason, or contrary to the evidence or established rules of law." *State v. Eighth Judicial Dist. Court*


¹The motion to exceed the page limit is granted.


(*Armstrong*), 127 Nev. 927, 931-32, 267 P.3d 777, 780 (2011) (internal quotation marks and citations omitted). Mandamus is not available when the petitioner has a plain, speedy, and adequate remedy in the ordinary course of the law, NRS 34.170, and it is within this court's discretion whether to entertain a mandamus petition, *Gathrite v. Eighth Judicial Dist. Court*, 135 Nev. 405, 407, 451 P.3d 891, 893 (2019).

We decline to exercise our discretion to entertain this petition. The documents attached to the petition indicate that NDOC has recalculated the expiration date and credits as required by our prior decision. If petitioner believes the recalculation is not correct, he may address that issue in his pending criminal case to the extent that any recalculation affects the presentence credits that he may be entitled to upon sentencing in that case. *Round Hill*, 97 Nev. at 604, 637 P.2d at 536 (“[A]n appellate court is not an appropriate forum in which to resolve disputed questions of fact.”); *see also Griffin v. State*, 122 Nev. 737, 739, 137 P.3d 1165, 1166 (2006) (recognizing “that 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”). Accordingly, we

ORDER the petition DENIED.


_____, C.J.
Stiglich


_____, J.
Lee


_____, J.
Bell

cc: Chief Judge, Eighth Judicial District Court
David Levoyd Reed
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk