

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAUSTEVEION DELANO JOHNSON,
Appellant,
vs.
CONNIE S. BISBEE; THE STATE OF
NEVADA BOARD OF PAROLE
COMMISSIONERS; AND JAMES
DZURENDA,
Respondents.

No. 84892

FILED

MAY 11 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a petition for a writ of mandamus. Eighth Judicial District Court, Clark County; Tara D. Clark Newberry, Judge.¹

Appellant Lausteveion Delano Johnson petitioned the district court for a writ of mandamus related to his parole hearings before respondent the State of Nevada Parole Board. To the extent Johnson asked the district court for mandamus relief directing the Board to vacate his 2016 parole denial, the district court properly denied relief because Johnson was granted an institutional parole in 2019 and parole cannot be granted retroactively.² See *Niergarth v. State*, 105 Nev. 26, 29, 768 P.2d 882, 884 (1989) (“[W]e are unaware of any statutory or case-law authority for the proposition that the Parole Board has authority to grant a retroactive parole.”); see also *Albios v. Horizon Cmtys., Inc.*, 122 Nev. 409, 426 n.40, 132 P.3d 1022, 1033 n.40 (2006) (providing that an appellate court may uphold

¹Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.

²Although we acknowledge Johnson’s argument that the assessments used in his 2016 parole hearing initially contained errors that the Board later corrected, his challenge to the same is now moot.


a decision on different grounds than used by a district court); *Johnson v. Dir., Nev. Dep't of Prisons*, 105 Nev. 314, 316 & n.4, 774 P.2d 1047, 1049 & n.4 (1989) (rejecting as moot claims regarding a parole hearing for a sentence that had expired despite the appellant's argument that any error in computing time on his initial sentence could be credited to his current sentence).

Johnson also sought writ relief directing respondent James Dzurenda, director of the Nevada Department of Corrections, to revise the sexual assessment procedures used by the NDOC. The revisions Johnson sought included training employees to interview inmates and including such interviews in the assessment, providing any assessment to an inmate 60 days before it is submitted to the Board, and establishing a method for inmates to challenge the accuracy of their sexual assessment. In support, Johnson relies on NRS 213.1214, which requires the NDOC to assess an inmate's "risk to reoffend in a sexual manner using a currently accepted standard of assessment," to ensure that employees conducting the assessments are "properly trained," and to ensure the accuracy of such assessments and correct any errors therein. NRS 213.1214(1), (2). We conclude that no relief is warranted as to this claim. *See Reno Newspapers, Inc. v. Haley*, 126 Nev. 211, 214, 234 P.3d 922, 924 (2010) (providing that this court generally reviews writ petition denials for an abuse of discretion but reviews petitions involving statutory interpretation de novo).

While writ relief may be available to ensure that the Board "act[s] within established parameters," *Anselmo v. Bisbee*, 133 Nev. 317, 323, 396 P.3d 848, 852-53 (2017), here Johnson asked the district court to order the creation of *new* specific procedures. And we are not convinced that Johnson has demonstrated that his proffered procedures are required by

NRS 213.1214 such that extraordinary relief was available. *See Walker v. Second Judicial Dist. Court*, 136 Nev. 678, 680, 476 P.3d 1194, 1196 (2020) (recognizing that, in order to issue a writ of mandamus to compel an act required by law, “[t]he petitioner must show a legal right to have the act done which is sought by the writ” and “that the act which is to be enforced by the mandate is that which it is the plain legal duty of the respondent to perform” (quoting Thomas Carl Spelling, *A Treatise on Injunctions and Other Extraordinary Remedies* 1173 (2d ed. 1901))); *see also Albios*, 122 Nev. at 426 n.40, 132 P.3d at 1033 n.40. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Stiglich


_____, J.
Lee


_____, J.
Bell

cc: Hon. Tara D. Clark Newberry, District Judge
Gallian Welker & Beckstrom, LC/Las Vegas
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk