

IN THE SUPREME COURT OF THE STATE OF NEVADA

DWIGHT CONRAD SOLANDER,  
Petitioner,  
vs.  
NEVADA DEPARTMENT OF  
CORRECTIONS; AND NEVADA  
DEPARTMENT OF PUBLIC SAFETY  
DIVISION OF PAROLE AND  
PROBATION,  
Respondents.

No. 86614

FILED

JUL 14 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER GRANTING PETITION FOR WRIT OF MANDAMUS*

This emergency pro se petition for a writ of mandamus seeks to compel the Nevada Department of Public Safety, Division of Parole and Probation's compliance with NRS 213.1543. That statute requires the Division to recommend early discharge from parole under certain conditions. According to petitioner Dwight Conrad Solander, he met the requirements of NRS 213.1543 in summer 2022, but the Division has failed since that time to make the required recommendation.

The Division has timely filed an answer, as directed. In it, the Division asserts that Solander failed to meet statutory requirement (1)(b), that the parolee "[h]as not violated any condition of parole during the immediately preceding 12 months." According to the Division, one condition of parole is payment of a monthly \$30 supervision fee, *see* NRS 213.1076(3), and Solander went "months on end without making the payment." The Division further notes that Solander owes court fees.

A writ of mandamus may issue to compel an official to perform a legally required act. NRS 34.160; *see also Sw. Gas Corp. v. Pub. Serv. Comm'n of Nev.*, 92 Nev. 48, 54, 546 P.2d 219, 222 (1976) ("Performance of a duty, enjoined upon an officer by law, without leaving him any discretion

in its performance, may be compelled by mandamus, if there be no other adequate remedy.” (quoting *Teeter v. Eighth Judicial Dist. Court*, 64 Nev. 256, 263, 180 P.2d 590, 594 (1947)). The writ may issue “in all cases where there is not a plain, speedy and adequate remedy in the ordinary course of law,” NRS 34.170, and it is an extraordinary remedy that is solely within this court’s discretion. *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991).

We conclude that Solander has demonstrated that writ relief is appropriate in this matter. NRS 213.1543 requires the Division to recommend early discharge upon a parolee’s satisfaction of the enumerated statutory requirements. Solander avers that he met all such requirements. While the Division contests Solander’s assertion that he complied with the conditions of his parole over the preceding 12 months, the Division has not shown that Solander’s failure to maintain a zero balance during each of the 12 months preceding when the recommendation was due constituted a disqualifying violation of a parole condition.<sup>1</sup>

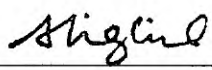
As the Division notes, NRS 213.1076 makes payment of a monthly fee to defray supervision costs a condition of parole, and condition E of Solander’s parole agreement states that he must “[p]ay all applicable fines and fees on a schedule determined by the Division.” *See also* NAC 213.230 (“Each parolee or probationer shall, during the term of the parole or probation, pay a monthly fee of \$30 to the Division of Parole and Probation of the Department of Public Safety to help defray the cost of supervision unless he or she receives a waiver as provided in subsection 2 of NRS 213.1076.”). The Division failed to provide any document indicating

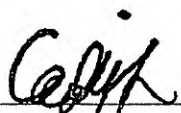
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<sup>1</sup>The Division also notes that Solander has not paid the court fees that he owes, but it points to no requirement under NRS 213.1543 that those fees be paid before an early release recommendation is made.

when the monthly payments were due or any notice or determination regarding the alleged violations, however. In any case, based on the accounting provided by the Division, Solander's account was current in July, September, and December 2022, and again in February and May 2023. A separate statutory requirement, NRS 213.1543(1)(c), requires that the parolee "[i]s current with any fee to defray the costs of his or her supervision charged by the Division pursuant to NRS 213.1076." We interpret this provision as requiring that any and all supervision fees owed are paid as of the time the recommendation is to be made. Solander was current with his supervision fees within the remaining 12 months of supervision, and thus, the Division was required to make the recommendation pursuant to NRS 213.1543. Accordingly, we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the Nevada Department of Public Safety, Division of Parole and Probation to recommend Solander for early discharge of his parole pursuant to NRS 213.1543.<sup>2</sup>

  
\_\_\_\_\_, C.J.  
Stiglich

  
\_\_\_\_\_, J.  
Cadish

  
\_\_\_\_\_, J.  
Herndon

<sup>2</sup>To the extent Solander seeks damages or reimbursement of the \$30 monthly fee paid after July 2022, that request is denied.

cc: Dwight Conrad Solander  
Attorney General/Carson City  
Attorney General/Las Vegas  
Clark County District Attorney  
Eighth District Court Clerk