


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TYRUS DELONG KEMP,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 87922-COA

FILED
SEP 27 2024
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Tyrus Delong Kemp appeals from a district court order denying a petition for a writ of mandamus filed on October 9, 2023.¹ Eighth Judicial District Court, Clark County; Erika D. Ballou, Judge.²

In his petition, Kemp argued that the method for determining the credit that should be applied toward an offender's sentence had been revised by Senate Bill (S.B.) 413 and that these revisions should apply to him. The district court denied the petition because (1) S.B. 413 does not become effective until July 1, 2025; and (2) Kemp had a plain, speedy, and adequate remedy in the ordinary course of the law through a postconviction habeas petition, which is the sole remedy to challenge the computation for time served. On appeal, Kemp contends that a petition for a writ of

¹Kemp alternatively sought a writ of prohibition but provides no cogent argument regarding that relief. Therefore, we need not consider it. *See Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987).

²The order denying Kemp's petition was signed by the Honorable Joseph T. Bonaventure, Senior Judge. Kemp also appeals from a district court order denying his motion to be transported for a hearing on the petition. That order was signed by the Honorable Erika D. Ballou.

mandamus was proper because he sought an order compelling the government to apply his newly “elected” computation method.

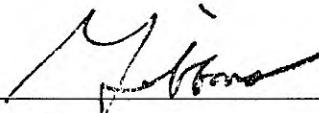
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, NRS 34.160, or to control a manifest abuse or arbitrary or capricious exercise of discretion, *Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 603-04, 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 the law. NRS 34.170.

A postconviction petition for a writ of habeas corpus “[i]s the *only* remedy available to an incarcerated person to challenge the computation of time that the person has served pursuant to a judgment of conviction, after all available administrative remedies have been exhausted.” NRS 34.724(2)(c) (emphasis added). Therefore, Kemp had a plain, speedy, and adequate remedy in the ordinary course of law. Because Kemp had an adequate remedy available, he failed to demonstrate that mandamus relief was warranted, and so the district court did not err in denying his petition and motion to be transported.

Although Kemp argues that mandamus was proper because he challenged the computation method rather than the computation number, we conclude that this claim lacks merit. *See Williams v. State Dep’t of Corr.*, 133 Nev. 594, 596, 402 P.3d 1260, 1262 (2017) (recognizing the petitioner’s claim that credits were not being applied to her eligibility for parole under NRS 209.4465(7)(b) challenged the computation of time served and was properly raised in a petition for a writ of habeas corpus); *Johnson v. Dir., Nev. Dep’t of Prisons*, 105 Nev. 314, 316, 774 P.2d 1047, 1049 (1989) (affirming the district court’s denial of a petition for a writ of habeas corpus

in part because “when appellant expired his sentences, any question as to the method of computing those sentences was rendered moot”). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Erika D. Ballou, District Judge
Chief Judge, Eighth Judicial District Court
Hon. Joseph T. Bonaventure, Senior Judge
Tyrus Delong Kemp
Attorney General/Carson City
Clark County District Attorney
Attorney General/Las Vegas
Eighth District Court Clerk