

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

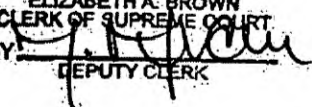
AMIR GIBSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 88019-COA

FILED

OCT 31 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT

BY: 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Amir Gibson appeals from a district court order denying a petition for a writ of mandamus filed on September 8, 2023.¹ Eighth Judicial District Court, Clark County; Erika D. Ballou, Judge.

In his petition, Gibson contended 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, which was passed by the Nevada Legislature in 2023, does not become effective for calculation purposes until July 1, 2025; and (2) Gibson had a plain, speedy, and adequate remedy in the ordinary course of law through a postconviction habeas petition. On appeal, Gibson contends that a petition for a writ of mandamus was the proper vehicle to pursue his claim.

¹Gibson alternatively sought a writ of prohibition but does not provide cogent argument regarding that relief. Additionally, the district court's January 2, 2024, order also denied a separate motion seeking mandamus relief filed on November 19, 2023, and Gibson does not provide cogent argument regarding the denial of that motion. Therefore, we need not consider those claims for relief. See *Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987).

because he sought an order compelling the government to apply his newly elected computation method. Gibson also argues the district court erred by denying his petition without first conducting an evidentiary hearing.

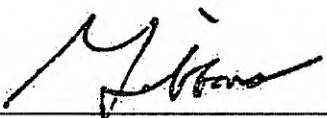
A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, NRS 34.160, or to control a manifest abuse or arbitrary or capricious exercise of discretion, *Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 603-04,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

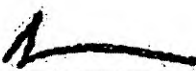
A postconviction petition for a writ of habeas corpus “[i]s the *only* remedy available to an incarcerated person to challenge the computation of time that the person has served pursuant to a judgment of conviction, after all available administrative remedies have been exhausted.” NRS 34.724(2)(c) (emphasis added). Therefore, Gibson has a plain, speedy, and adequate remedy in the ordinary course of law to challenge the computation of his credits by way of a postconviction habeas petition. Although Gibson argues that he challenged the computation method rather than the computation number and thus that he appropriately sought mandamus relief, we conclude his claim falls within the scope of a petition for a writ of habeas corpus challenging the computation of time. *See Williams v. Nev., Dep’t of Corr.*, 133 Nev. 594, 596, 402 P.3d 1260, 1262 (2017) (recognizing a claim that statutory credits are not being properly applied to an inmate’s sentence is a challenge to the computation of time served that is properly raised in a postconviction habeas petition). Because Gibson has an adequate remedy available, he failed to demonstrate that mandamus relief was warranted, and the district

court did not err in denying his petition without first conducting an evidentiary hearing.

Further, Gibson's claim for credits relies on a revised method that has not yet gone into effect. *See* 2023 Nev. Stat., ch. 394, § 11, at 2318 (providing that, "for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act," S.B. 413 became effective upon passage and approval but that, "for all other purposes," S.B. 413 becomes effective on July 1, 2025). Therefore, he failed to demonstrate that mandamus relief was warranted to compel a public officer to perform an act which the law especially enjoins as a duty resulting from an office or that the district court manifestly abused its discretion in denying his requested relief. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Erika D. Ballou, District Judge
Amir Gibson
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk