

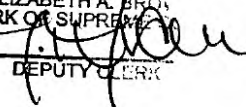
IN THE SUPREME COURT OF THE STATE OF NEVADA

ELIAS G. MONTALVO,
Petitioner,
vs.
NEVADA BOARD OF PAROLE
COMMISSIONERS,
Respondent.

No. 89399

FILED

JAN 21 2025

ELIZABETH A. BRON
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

*ORDER DENYING PETITION
FOR A WRIT OF MANDAMUS*

This is an original pro se petition for a writ of mandamus asking this court to direct the Parole Board to reconsider its decision to deny petitioner parole.

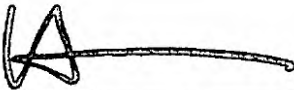
Petitioner was convicted in 2015, pursuant to a jury verdict, of second-degree murder and sentenced to serve a prison term of 10 years to life. In this original mandamus petition, petitioner claims that the Parole Board partially based its decision to deny him parole on inapplicable aggravating factors, specifically, NAC 213.518(2)(e) (“Whether the prisoner has a significant prior criminal history.”), and NAC 213.518(2)(i) (“Whether the nature of the criminal record of the prisoner is increasingly more serious.”). Petitioner also claims that the Parole Board failed to consider applicable mitigating factors, specifically, NAC 213.518(3)(i) (“Whether the prisoner has support available to him or her in the community or from his or her family.”), and NAC 213.518(3)(m) (“Whether the case history of the

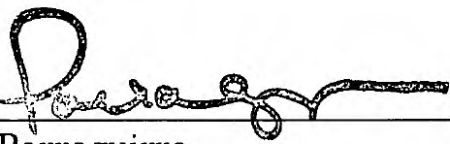
prisoner demonstrates remorse by the prisoner.”). On October 28, 2024, we entered an order directing respondent to file and serve an answer.

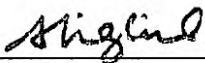
In its answer, respondent most notably states that it agrees with petitioner that one of the aggravators, NAC 213.518(2)(e), was inapplicable “because he had not previously been convicted of a felony offense prior to his conviction for second degree murder.” Due to this admitted oversight, the Parole Board “has determined to voluntarily provide Petitioner with a new parole eligibility hearing.” According to the Nevada Department of Corrections website, the parole eligibility hearing is scheduled for January 16, 2025. In his reply, while acknowledging that he will be receiving another parole eligibility hearing, petitioner again argues that NAC 213.518(2)(i) is an inapplicable aggravator and asks this court to order the Parole Board not to apply this aggravator.

Having considered the briefs and documentation submitted by the parties, we are not convinced that our extraordinary and discretionary intervention is warranted at this time. *Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) (observing that the party seeking writ relief bears the burden of showing that such relief is warranted); *Smith v. Eighth Jud. Dist. Ct.*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991) (recognizing that writ relief is an extraordinary remedy and that this court has sole discretion in determining whether to entertain a writ petition).

As petitioner has failed to demonstrate that our intervention by extraordinary writ is warranted, we decline to exercise our original jurisdiction in this matter. *See* NRAP 21(b). Under the circumstances, we
ORDER the petition DENIED.


_____, C.J.
Herndon


_____, J.
Parraguirre


_____, J.
Stiglich

cc: Elias G. Montalvo
Attorney General/Carson City
Attorney General/Las Vegas