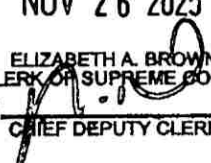


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL DEAN ADKISSON,
Appellant,
vs.
JAMES DZURENDA, DIRECTOR,
NEVADA DEPARTMENT OF
CORRECTIONS; JOHN HENLEY,
WARDEN; AND NEVADA
DEPARTMENT OF CORRECTIONS,
Respondents.

No. 90084-COA

FILED
NOV 26 2025
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  CHIEF DEPUTY CLERK

ORDER AFFIRMING AND DISMISSING APPEAL IN PART

Michael Dean Adkisson appeals from district court orders denying a petition for a writ of mandamus filed on October 24, 2024; an application and an amended application for leave to proceed in forma pauperis; and an “emergency motion for courts order directing petitioner be immediately released from prison.” First Judicial District Court, Carson City; Kristin Luis, Judge.

Petition for a writ of mandamus

Adkisson first argues the district court erred by denying his petition for a writ of mandamus. In his petition, Adkisson claimed he was denied the ability to vote in the November 2024 presidential election because respondents neglected their duty to release him from prison on November 1, 2023. Adkisson contended he was entitled to release because he had been institutionally paroled on his second-degree murder conviction on November 1, 2016; the deadly weapon enhancement was not a separate

conviction requiring a separate grant of parole; and he had served the 20-year minimum prison sentence imposed.¹

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 if the petitioner has a plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170. A petitioner “carri[es] the burden of demonstrating that extraordinary relief is warranted.” *Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). “We generally review a district court’s grant or denial of writ relief for an abuse of discretion.” *Koller v. State*, 122 Nev. 223, 226, 130 P.3d 653, 655 (2006).

The Nevada Supreme Court has held that “the penalty for a primary offense and the enhancement penalty imposed pursuant to NRS 193.165 [the deadly weapon enhancement statute] are separate and distinct, and the consecutive sentences imposed must be treated as separate sentences for all purposes.” *Nev. Dept. of Prisons v. Bowen*, 103 Nev. 477, 481, 745 P.2d 697, 699 (1987). And the granting of parole is “purely discretionary.” *State, ex rel. Bd. of Parole Comm’rs v. Morrow*, 127 Nev. 265, 271, 255 P.3d 224, 227 (2011); *see also* NRS 213.1099(1).

¹Adkisson was convicted in 2004, pursuant to a jury verdict, of second-degree murder with the use of a deadly weapon. For the murder count, the sentencing court imposed a sentence of life in prison with a minimum parole eligibility of 10 years. The court imposed an equal and consecutive term of life in prison with a minimum parole eligibility of 10 years for the use of a deadly weapon.

Here, the penalties imposed for Adkisson’s primary offense and the enhancement penalty imposed pursuant to NRS 193.165 are treated as separate sentences for parole eligibility purposes. Adkisson was convicted in 2004 and was institutionally paroled on the murder count on November 1, 2016. Because Adkisson only became *eligible* for parole on the enhancement penalty 10 years after his parole on the murder count, he did not meet his burden of demonstrating that extraordinary relief was warranted to address his claim that respondents neglected their duty to release him from prison on November 1, 2023. Therefore, we conclude the district court did not abuse its discretion by denying Adkisson’s petition.

Applications for leave to proceed in forma pauperis

Adkisson’s appeal from district court orders denying his applications to proceed in forma pauperis reveals a jurisdictional defect. “The decision of a court granting or denying an application to proceed as an indigent litigant filed pursuant to paragraph [NRS 12.015(1)(a)²] is *not* appealable.” NRS 12.015(7) (emphasis added). Therefore, we lack jurisdiction to consider this portion of Adkisson’s appeal, and we order it dismissed. *See Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990).

Emergency motion

Finally, Adkisson argues the district court erred by denying his emergency motion to be immediately released from prison filed on October 31, 2024. Adkisson contends the district court erred by determining it could

²NRS 12.015(1)(a) provides that “[a]ny person who desires to prosecute or defend a civil action without paying the costs for prosecuting or defending the action may . . . [f]ile . . . an application to proceed as an indigent litigant.”

not act on his motion without a response from the Nevada Attorney General's Office and by denying the motion without making specific findings of fact and conclusions of law. Adkisson's motion, including his assertions for immediate release from prison, was largely based on the arguments made in his petition for a writ of mandamus. For the reasons discussed above, Adkisson was not entitled to relief on those arguments and was not entitled to immediate release from prison. Therefore, he fails to demonstrate that any alleged errors by the district court in deciding his emergency motion affected his substantial rights. See NRS 178.598 ("Any error, defect, irregularity or variance which does not affect substantial rights shall be disregarded."). Accordingly, we

ORDER the judgment of the district court AFFIRMED AND DISMISS THE APPEAL IN PART.³


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

³To the extent Adkisson presents claims or facts in his informal brief that were not previously presented in the proceedings below, we decline to consider them in the first instance on appeal. See *State v. Wade*, 105 Nev. 206, 209 n.3, 772 P.2d 1291, 1293 n.3 (1989). Insofar as Adkisson raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.

cc: Hon. Kristin Luis, District Judge
Michael Dean Adkisson
Attorney General/Carson City
Attorney General/Las Vegas
Carson City District Attorney
Carson City Clerk