

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN WITHEROW,
Appellant,
vs.
JERRY M. HOOVER, POLICE CHIEF,
RENO POLICE DEPARTMENT,
Respondent.

No. 38409

FILED

OCT 14 2002

ANNETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's post-conviction petition for a writ of mandamus.

On June 4, 2001, appellant filed a proper person writ of mandamus in the district court. The district court denied appellant's petition on August 16, 2001. This appeal followed.

In his petition, appellant claimed that he is entitled to a copy of a letter sent from the repeat offender program to the parole board opposing appellant's release on parole on the stated ground that appellant would engage in further criminal activity once released on parole. Appellant claimed that he has a common law right to a copy of the documents contained within the board's files and records because they pertain to him. Appellant also claimed that he was denied parole by the parole board due, in part, to this letter.

A writ of mandamus is available to compel the performance of an act which the law requires as a duty resulting from an office, trust or station, or to control an arbitrary or capricious exercise of discretion.¹ A writ of mandamus is an extraordinary remedy, and it is in the discretion of the district court whether a petition will be entertained.²

We conclude that the district court did not abuse its discretion in denying appellant's petition. NRS 213.1075 states that "all information obtained in the discharge of an official duty by a parole . . . officer or employee of the board is privileged and may not be disclosed directly or indirectly to anyone other than the board, the judge, district attorney or others entitled to receive such information, unless otherwise ordered by the board."³ Appellant has failed to show that he was entitled to have a copy of the letter sent by the repeat offender program to the parole board.⁴ Moreover, parole is an act of grace of the State and no person has a right to parole.⁵ Thus, appellant did not demonstrate that he was entitled to extraordinary relief.

¹See NRS 34.160.

²See County of Clark v. Doumani, 114 Nev. 46, 952 P.2d 13 (1998).


³See NRS 213.1075.


⁴See Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984).


⁵See NRS 213.10705.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.⁶ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁷


_____, J.
Shearing


_____, J.
Leavitt


_____, J.
Becker

cc: Hon. Charles M. McGee, District Judge
Hon. Scott Jordan, District Judge, Family Court Division
Reno City Attorney
John Witherow
Washoe District Court Clerk

⁶See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁷We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.