

IN THE SUPREME COURT OF THE STATE OF NEVADA

NOEL ALLEN,

Appellant,

vs.

WARDEN, ELY STATE PRISON, E.K.
MCDANIEL, BILL DONAT, JOE E. NIEL,
ROBERT BAYER, AND NEVADA
DEPARTMENT OF PRISONS,

Respondents.

No. 35166

FILED

MAY 17 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Bloom*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a proper person original petition for a writ of mandamus.

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 will not issue, however, if petitioner has a plain, speedy and adequate remedy in the ordinary course of law.²

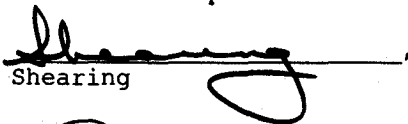
Having reviewed the record on appeal, we conclude that the district court properly denied appellant's petition

¹See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

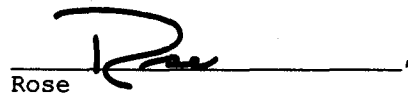
²See NRS 34.170.

on the basis that appellant has an adequate legal remedy at law.³ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


Shearing, J.


Agosti, J.


Rose, J.

cc: Hon. Steve L. Dobrescu, District Judge
Attorney General
Noel Allen
White Pine County Clerk

³See *Preiser v. Rodriguez*, 411 U.S. 475 (1973) (noting that an inmate can file a civil rights action under U.S.C. § 1983 to challenge the conditions of his confinement); *Cummings v. Charter Hospital*, 111 Nev. 639, 896 P.2d 1137 (1995) (involving class action civil rights claim under U.S.C. § 1983 against private mental hospital and physicians); *Miller v. Evans*, 108 Nev. 372, 832 P.2d 786 (1992) (recognizing civil rights claim under U.S.C. § 1983 filed by inmate against prison officials for meaningful access to prison law library).

Although appellant has not been granted permission to file documents in this matter in proper person, see NRAP 46(b), we have received and considered appellant's proper person documents.