

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID L. CUNNINGHAM,
Petitioner,
vs.
JAMES GREG COX, DIRECTOR OF
NEVADA DEPARTMENT OF
CORRECTIONS,
Respondent.

No. 68475

FILED

SEP 10 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DENYING PETITION

This is a pro se petition for a writ of mandamus. Petitioner seeks an order directing respondent to comply with NRS 209.429 and place him in the 305 house arrest program. Petitioner claims that the Department of Corrections has incorrectly determined that an inmate is not eligible for the program until the inmate's mandatory parole release date or a decision by the Department's Offender Management Division that an inmate will likely get parole at his next parole hearing.

We decline to exercise original jurisdiction in this matter. See NRS 34.160; NRS 34.170. Petitioner's request is premature as he has not demonstrated that he has even applied for placement in the program.¹ Further, whether petitioner is eligible for the program involves issues of

¹Petitioner includes a copy of an inmate request form, indicating that a caseworker believes petitioner's request to be placed in the 305 program will likely be denied. However, the form also indicates that the caseworker provided petitioner with an application. The inmate request form does not suggest that petitioner had been denied placement in the program before he filed the petition in this court.

fact that should be litigated in the district court in the first instance.
Accordingly, we

ORDER the petition DENIED.

Parraguirre, J.
Parraguirre

Douglas, J.
Douglas

Cherry, J.
Cherry

cc: David L. Cunningham
Attorney General/Carson City