

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

THOMAS EDWARD O'DONNELL,
Petitioner,
vs.
THE STATE OF NEVADA; THE
OFFICE OF THE INSPECTOR
GENERAL OF NEVADA; THE
DEPARTMENT OF PAROLE AND
PROBATION; THE STATE OF NEVADA
DEPARTMENT OF CORRECTIONS;
AND WARDEN, SOUTHERN DESERT
CORRECTIONAL CENTER,
Respondents.

No. 72669

FILED

MAR 30 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Valera
DEPUTY CLERK

ORDER DENYING PETITION

This petition for a writ of mandamus seeks an order vacating petitioner's Board of Parole Commissioners' hearing scheduled for April 6, 2017; vacating "convictions" that arose from a disciplinary hearing held on January 6, 2017; directing petitioner's release from custody and returning him to parole status; "unfreezing" the funds in petitioner's inmate account; and ordering petitioner's immediate release from the Southern Desert Correctional Center.

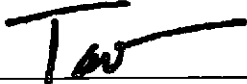
A writ of mandamus is available to compel the performance of an act which the law requires as a duty resulting from an office, trust or station, NRS 34.160, or to control an arbitrary or capricious exercise of discretion, *Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). A writ of mandamus will not issue, however, if petitioner has a plain, speedy and adequate remedy in the ordinary course of law. NRS 34.170. Further, mandamus is an extraordinary remedy, and it is within the discretion of this court to

determine if a petition will be considered. See *Poulos v. Eighth Judicial Dist. Court*, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982); see also *State ex rel. Dep't Transp. v. Thompson*, 99 Nev. 358, 360, 662 P.2d 1338, 1339 (1983).

Because petitioner can challenge prison disciplinary proceedings in a civil rights action, see 42 U.S.C. § 1983, and he can challenge the loss of good time credits and any revocation of parole in a petition for a writ of habeas corpus filed in the district court, see NRS 34.500; NRS 34.724, petitioner has a plain, speedy, and adequate remedy at law and, therefore, this court's intervention by way of an extraordinary writ is not warranted. See NRS 34.170; *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004) ("Petitioner[] carr[ies] the burden of demonstrating that extraordinary relief is warranted."). Accordingly, without deciding upon the merits of any claims raised therein, we

ORDER the petition DENIED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Brian J. Smith
Attorney General/Carson City
Eighth District Court Clerk