

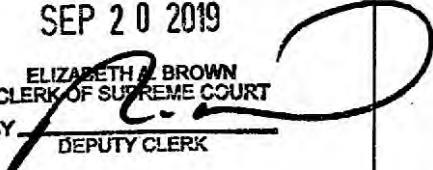
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JEFFERY MULHALL,  
Appellant,  
vs.  
BRIAN SANDOVAL, GOVERNOR OF  
THE STATE OF NEVADA; AND THE  
STATE OF NEVADA,  
Respondents.

No. 77435-COA

**FILED**

SEP 20 2019

ELIZABETH L. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Jeffery Mulhall appeals from an order of the district court denying a petition for a writ of mandamus. Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.


Mulhall argues the district court erred by denying his March 29, 2018, petition. In his petition, Mulhall contended the bill that created the statute revision commission in 1951 was unconstitutional as it violates the separation of powers doctrine, and he requested the district court to issue a writ directing the governor to investigate whether the Nevada Revised Statutes are unconstitutional.

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 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, however, if the petitioner has a plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170.

Mulhall was not entitled to relief because he did not demonstrate that the statute revision commission improperly encroached upon the powers of another branch of government. *See Comm'n on Ethics v. Hardy*, 125 Nev. 285, 291-92, 212 P.3d 1098, 1103 (2009) ("The purpose of the separation of powers doctrine is to prevent one branch of government from encroaching on the powers of another branch."). Mulhall also failed to demonstrate members of the Nevada Supreme Court violated Nev. Const. Art. 6, § 11, by serving in a non-judicial public office, because he failed to demonstrate that participation in a commission regarding revising Nevada's statutes involved, as part of the regular and permanent administration of the government, the continuous exercise of a public power, trust, or duty. *See* NRS 281.005(1) (defining public officer). In addition, Mulhall failed to demonstrate that he did not have an adequate remedy with which to challenge his conviction. *See* NRS 34.170. Therefore, the district court did not err by denying the petition without conducting an evidentiary hearing.<sup>1</sup> *See generally Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

<sup>1</sup>In its order denying relief, the district court improperly referred to the petition as a petition for a writ of habeas corpus when Mulhall actually filed a petition for a writ of mandamus. Nevertheless, we affirm because the district court properly denied the petition. *See Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970).

cc: Hon. Linda Marie Bell, Chief Judge  
Jeffery Mulhall  
Attorney General/Carson City  
Eighth District Court Clerk