

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GILBERTO CARRILLO, JR., A/K/A
GILBERTO CARILLO, JR.,
Appellant,

vs.

BRIAN WILLIAMS, H.D.S.P. WARDEN;
JAMES DZURENDA, DIRECTOR; THE
STATE OF NEVADA DEPARTMENT
OF CORRECTIONS; AND THE STATE
OF NEVADA,
Respondents.

No. 77566-COA

FILED

OCT 08 2019

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

ORDER OF AFFIRMANCE

Gilberto Carrillo, Jr., appeals from an order of the district court denying a "First Amendment Petition for a Writ of Mandamus pursuant to NRS 34.185" filed on August 14, 2018. Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.

First, we conclude the district court erred by construing Carrillo's petition as a postconviction petition for a writ of habeas corpus, because Carrillo specifically sought a petition for a writ of mandamus. Nevertheless, we affirm the district court's denial of the petition because the district court reached the correct result, albeit for the wrong reason. *See Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970).

In his petition, Carrillo sought a writ of mandamus to direct the Nevada Department of Corrections to comply with NRS 209.4465(7) and apply statutory credits to the minimum terms of his sentences. 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.

Carrillo had a plain, speedy, and adequate remedy because he was required to file his claim in a postconviction petition for a writ of habeas corpus challenging the computation of time served. See NRS 34.724(2)(c) (a postconviction petition for a writ of habeas corpus “[i]s the only remedy available to an incarcerated person to challenge the computation of time served pursuant to a judgment of conviction”). Because Carrillo had an adequate remedy available, he failed to demonstrate mandamus relief was warranted. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Linda Marie Bell, Chief Judge
Gilberto Carrillo, Jr.
Attorney General/Las Vegas
Eighth District Court Clerk