

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WILLIAM JAMES BERRY, SR.,
Appellant,
vs.
JAMES DZURENDA, DIRECTOR; THE
STATE OF NEVADA DEPARTMENT
OF CORRECTIONS; AND BRIAN
WILLIAMS, WARDEN,
Respondents.

No. 78702-COA

FILED

DEC 27 2019

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

ORDER OF AFFIRMANCE

William James Berry, Sr., appeals from an order of the district court denying a petition for a writ of mandamus. Eighth Judicial District Court, Clark County; James M. Bixler, Senior Judge.

In his December 19, 2018, petition, Berry claimed officials employed by the Nevada Department of Corrections were deliberately indifferent to his medical needs.

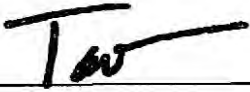
A writ of mandamus is available to compel the performance of an act which the law requires as a duty resulting from an office, trust, or station, NRS 34.160, or to control a manifest abuse or arbitrary or capricious exercise of discretion, *Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 603-04, 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. "We generally review a district court's grant or denial of writ relief for an abuse of discretion." *Koller v. State*, 122 Nev. 223, 226, 130 P.3d 653, 655 (2006).

Based upon our review of the record on appeal, Berry failed to demonstrate the district court abused its discretion by denying the petition. Berry had a plain, speedy, and adequate remedy at law by way of a 42

U.S.C. § 1983 federal civil rights action. And, while a writ petition may be faster than a § 1983 action, "the fact that mandamus would give an easier or more expeditious remedy is not the criterion. Mandamus lies only where there is no other remedy, both legal and specific." *Washoe Cty. v. City of Reno*, 77 Nev. 152, 156, 360 P.2d 602, 603 (1961). Therefore, it was not an abuse of discretion for the district court to find Berry had an adequate remedy at law. Accordingly, we conclude that the district court did not abuse its discretion in denying Berry's petition, and we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Chief Judge, Eighth Judicial District Court
Hon. James M. Bixler, Senior Judge
William James Berry, Sr.
Attorney General/Carson City
Attorney General/Las Vegas
Eighth District Court Clerk

¹Given our disposition of this appeal, we need not address Berry's additional arguments.