


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

REGINALD CLARENCE HOWARD,  
Appellant,  
vs.  
THE STATE OF NEVADA; AND BRIAN  
WILLIAMS, WARDEN,  
Respondents.

No. 87146-COA

FILED

MAR 18 2024

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER OF AFFIRMANCE

Reginald Clarence Howard appeals from an order of the district court denying a petition for a writ of mandamus filed on June 28, 2023. Eighth Judicial District Court, Clark County; Jennifer L. Schwartz, Judge.

In his petition, Howard sought an order directing the district court to allow him to file an amended postconviction petition for a writ of habeas corpus. A writ of mandamus is available to compel the performance of an act that 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 petitioner “carr[ies] the burden of demonstrating that extraordinary relief is warranted.” *Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). “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).

The postconviction habeas petition that Howard sought to amend was denied years ago by the district court, and the district court’s denial was affirmed by this court on appeal. *See Howard v. State*, No.

74436-COA, 2018 WL 4944507 (Nev. Ct. App. Oct. 9, 2018) (Order of Affirmance). Because litigation of that petition is final, Howard did not demonstrate that the filing of an amended petition would be permissible and, thus, that anyone failed to perform an act which the law requires as a duty resulting from an office, trust, or station or that mandamus relief was necessary to control a manifest abuse or arbitrary or capricious exercise of discretion. Therefore, we conclude the district court did not abuse its discretion by denying Howard's petition for a writ of mandamus.<sup>1</sup>

On appeal, Howard argues that the State failed to inform all parties that his postconviction habeas petition was defective because it lacked verification pursuant to NRS 34.730(1). Because Howard did not make this argument below, we decline to consider it for the first time on appeal. See *McNelton v. State*, 115 Nev. 396, 415-16, 990 P.2d 1263, 1275-76 (1999).

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<sup>1</sup>Howard claimed the district court clerk erroneously filed only part of his postconviction habeas petition and, thus, any court orders related to its disposition are void for lack of jurisdiction. Howard did not name the district court clerk as a respondent, and the district court is unable to issue an order mandating itself to do something. See *Koza v. Eighth Jud. Dist. Ct.*, 99 Nev. 535, 540, 665 P.2d 244, 247 (1983) (explaining that a petition for a writ of mandamus is available to compel an act from a lower tribunal); *Jennett v. Stevens*, 33 Nev. 527, 528, 111 P. 1025, 1025 (1910) (holding that district courts cannot compel one another by mandamus). Finally, Howard's claim did not implicate the jurisdiction of the courts. See Nev. Const. art. 6, § 6; *United States v. Cotton*, 535 U.S. 625, 630 (2002) (“[T]he term jurisdiction means . . . the court’s statutory or constitutional power to adjudicate the case.” (internal quotation marks omitted)); *Landreth v. Malik*, 127 Nev. 175, 183, 251 P.3d 163, 168 (2011) (“Subject matter jurisdiction is the court’s authority to render a judgment in a particular category of case.”). Therefore, we conclude the district court did not err by denying this claim.

Howard also argues on appeal that the district court erred when it failed to assist him with filing his petition for a writ of mandamus with the Nevada Supreme Court. Howard fails to demonstrate that he requested any such assistance or that the district court was obligated to provide it had he requested it. Accordingly, we conclude he is not entitled to relief on this claim, and we

ORDER the judgment of the district court AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Jennifer L. Schwartz, District Judge  
Reginald Clarence Howard  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk