

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FERRILL JOSEPH VOLPICELLI,
Appellant,
vs.
NEVADA DEPT. OF CORRECTIONS,
DIRECTOR DZURENDA,
Respondent.

No. 89817-COA

FILED

AUG 12 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *Melissa J. Miller*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Ferrill Volpicelli appeals from a district court order denying his petition for a writ of mandamus. First Judicial District Court, Carson City; James Todd Russell, Judge.

Volpicelli filed a petition for a writ of mandamus which alleged he was currently under the custody of respondent the Nevada Department of Corrections (NDOC) and housed at Lovelock Correctional Center (LCC). Volpicelli claimed that LCC has a policy, approved by respondent Director James Dzurenda, that only allowed inmates to purchase forever stamps which have a set postage amount. Volpicelli alleged this policy forces him to overpay for postage on any mailings exceeding one ounce or on postcards because he is required to use \$1.46 in forever stamps, whereas he would only pay \$1.01 if he could purchase other postage denominations. Volpicelli sought an order directing respondents to permit him to buy additional postage denominations from outside sources, including the United States Postal Service.

Respondents filed an opposition to this petition which argued a writ should not issue because Volpicelli has an adequate remedy at law and had previously filed a federal complaint alleging this mail policy violated

his constitutional rights and that this complaint was dismissed with prejudice. Respondents further argued that the legislature provided Director Dzurenda with the discretion to create and enforce a mailing policy so long as it does not violate a constitutional right. Furthermore, respondents claimed Volpicelli could not demonstrate a legal entitlement to the requested relief and that the requested relief posed a security and safety threat.

Volpicelli filed a reply which acknowledged he had previously filed a civil suit, but because it was dismissed, he maintained that he did not have an adequate remedy at law. Further, Volpicelli acknowledged the legislature provided Director Dzurenda with discretion to set and enforce NDOC policies, but argued that, because there is no law explicitly permitting NDOC to charge "superfluous" postage, the policy at issue here violated state law and his constitutional rights. Finally, Volpicelli claimed the mail policy constitutes a punishment that is not "integral to his judgment of conviction."

The district court denied the petition for a writ of mandamus finding: (1) Volpicelli has an adequate remedy at law, (2) Director Dzurenda has discretion to set and maintain a mail policy, (3) Volpicelli failed to demonstrate an entitlement to relief, and (4) the requested relief would create safety and security concerns. Volpicelli now appeals.

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). However, a writ of mandamus will not issue if the petitioner has a plain, speedy, and


adequate remedy in the ordinary course of law. NRS 34.170. A petitioner “carri[es] 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).


On appeal, Volpicelli challenges only the district court’s determination that writ relief was unwarranted based on the fact that Volpicelli had a speedy and adequate legal remedy available. And because he has failed to challenge the other alternative bases the district court provided for the denial of his petition, affirmance of the challenged order is warranted on that ground alone. *See Hung v. Berhad*, 138 Nev. 547, 549, 513 P.3d 1285, 1287 (Ct. App. 2022) (holding that generally an appellant must successfully challenge all grounds supporting a decision to obtain reversal). However, even if we were to consider Volpicelli’s argument regarding the availability of other remedies, this argument would not provide a basis for relief.

As detailed above, the district court denied the petition, in part, because Volpicelli not only had a speedy and adequate remedy in the form of a civil action, but because he had previously availed himself of that remedy. We agree with the district court. It is well established that a challenge to the conditions of confinement, such as Volpicelli’s challenge to the NDOC mail policy, can be brought in a civil action. *See Sandin v. Conner*, 515 U.S. 472, 475-76 (1995) (challenging conditions of confinement through a civil complaint); *Berry v. Feil*, 131 Nev. 339, 340-41, 357 P.3d 344, 344-45 (Ct. App. 2015) (determining that the Prison Litigation Reform Act’s exhaustion requirement applied to a civil rights complaint filed by an

inmate that challenged the conditions of his confinement); *see also* 42 U.S.C. § 1983. Further, despite Volpicelli's argument to the contrary, the fact that his prior complaint was unsuccessful does not mean he lacked a speedy and adequate remedy, as he could have appealed that determination. *See Pan*, 120 Nev. at 224-25, 88 P.3d at 841 (concluding that "the right to appeal is generally an adequate legal remedy that precludes writ relief" even where the time to appeal has expired without an appeal being taken); *see also Pough v. Bean*, Case No. 2:24-cv-02098-CDS-EJY, 2025 WL 1879983, at *1-2 (D. Nev. Jun. 20, 2025) (concluding a plaintiff cannot use a writ petition "to avoid filing a civil rights action"). Given the foregoing, the district court properly concluded that Volpicelli had a speedy and adequate remedy at law, such that writ relief was not available to challenge the NDOC mail policy. Accordingly, we affirm the order denying Volpicelli's petition for a writ of mandamus.

It is so ORDERED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: First Judicial District Court, Dept. One
Ferrill Joseph Volpicelli
Attorney General/Carson City
Attorney General/Las Vegas
Carson City Clerk