

IN THE SUPREME COURT OF THE STATE OF NEVADA

KEVIN TYRONE RUFFIN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 40513

**FILED**

NOV 18 2003

ORDER OF AFFIRMANCE

JANETTE M. PLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying appellant Kevin Ruffin's petition for a writ of mandamus.

On June 13, 2000, the district court convicted Ruffin, pursuant to a jury verdict, of one count of burglary and one count of larceny from a person. The district court adjudicated Ruffin a habitual criminal and sentenced him to serve two consecutive terms of life in the Nevada State Prison with the possibility of parole in ten years. Ruffin was also ordered to pay a \$25.00 administrative assessment fee, a \$250.00 DNA analysis fee, and \$260.00 in restitution. This court affirmed Ruffin's conviction.<sup>1</sup> On September 17, 2002, Ruffin filed a proper person petition for a writ of mandamus in the district court. The district court denied his petition. This appeal followed.

In his petition, Ruffin requested that the district court issue an order requiring the Nevada Department of Corrections to refund \$535.00 that was withdrawn from his inmate account. Ruffin contended

---

<sup>1</sup>Ruffin v. State, Docket No. 36330 (Order of Affirmance, November 19, 2001).

that the source of the money in his account was a gift, not earned wages, and could not therefore be legally deducted without his permission.

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,<sup>2</sup> or to control an arbitrary or capricious exercise of discretion.<sup>3</sup> However, a writ is an extraordinary remedy,<sup>4</sup> and will not issue if there is "a plain, speedy and adequate remedy in the ordinary course of law."<sup>5</sup>

NRS 209.247 authorizes the director of the Department of Corrections to make reasonable deductions "from any money deposited in the individual account of the offender from any source other than his wages" to pay an administrative assessment fee, to pay a fee imposed for genetic marker testing, and to pay restitution.<sup>6</sup> Our review of the record reveals that the \$535.00 deducted from Ruffin's account was for a \$25.00 administrative assessment fee, a \$250.00 DNA analysis fee, and \$260.00 in restitution that Ruffin was ordered to pay in the judgment of conviction. By Ruffin's own admission, the source of the money in his account was not earned wages. The deductions were both reasonable and authorized by statute. Therefore, we conclude that Ruffin's petition was without merit and was properly denied by the district court.

---

<sup>2</sup>See NRS 34.160.

<sup>3</sup>See Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 604, 637 P.2d 534, 536 (1981).

<sup>4</sup>See Poulos v. District Court, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982).

<sup>5</sup>See NRS 34.170.

<sup>6</sup>See NRS 209.247(6), (7), (9) (emphasis added).

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Ruffin is not entitled to relief and that briefing and oral argument are unwarranted.<sup>7</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>8</sup>

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Leavitt

  
\_\_\_\_\_, J.  
Maupin

cc: Hon. Jessie Elizabeth Walsh, District Judge  
Kevin Tyrone Ruffin  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

---

<sup>7</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

<sup>8</sup>We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.