

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL P. ANSELMO,

Appellant,

vs.

CONNIE BISBEE, CHAIRMAN; SUSAN JACKSON; TONY CORDA; ADAM

ENDEL, COMMISSIONERS; AND THE

STATE OF NEVADA BOARD OF

PAROLE,

Respondents.

No. 67619

FILED

JUN 29 2017

ELIZABETH A. BROWN
CLERK OF THE COURT
BY: *[Signature]*
CHIEF DEPUTY CLERK

ORDER

This is an appeal from a district court order dismissing a pro se postconviction petition for a writ of habeas corpus. In its order of dismissal, the district court concluded that appellant Michael Anselmo primarily challenged the denial of parole, and that such a claim is not cognizable in a postconviction petition for a writ of habeas corpus.

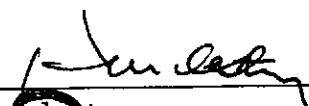
Generally, this was a correct legal conclusion, as parole is an act of grace in Nevada, and no cause of action exists when parole is denied. *See* NRS 213.10705; *Weakland v. Bd. of Parole Comm'rs*, 100 Nev. 218, 220, 678 P.2d 1158, 1160 (1984). Further, these claims are not cognizable in a petition for a writ of habeas corpus because Anselmo is confined pursuant to a valid judgment conviction, and his claims related to parole do not demonstrate unlawful confinement. *See* NRS 34.360.

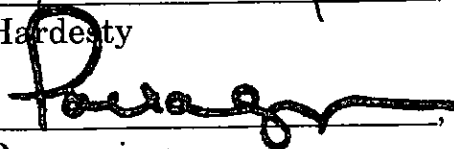
Anselmo filed a timely notice of appeal. This court entered an order referring Anselmo for the appointment of pro bono counsel. *Anselmo v. Bisbee*, Docket No. 67619 (Order Regarding Pro Bono Counsel, November 24, 2015). This court specifically requested briefing regarding the California case of *In re Lawrence*, 190 P.3d 535 (Cal. 2008).

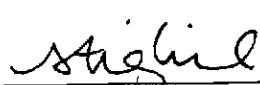
Pro bono counsel filed an opening brief and, in addition to Anselmo's claims related to *Lawrence*, counsel also argued that Anselmo was entitled to a new parole hearing on the basis that the Parole Board violated its own internal guidelines in assessing Anselmo's suitability for parole. This claim was not raised in the district court. Further, for the reasons discussed above, this claim and any claims related to *Lawrence* would be more properly raised in a petition for a writ of mandamus, rather than a petition for a writ of habeas corpus. See NRS 34.160; NRS 34.170 (noting that extraordinary relief may be available where there is no "plain, speedy and adequate remedy in the ordinary course of law"); NRS 34.360; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008) ("A writ of mandamus is available to compel the performance of an act that the law requires . . . or to control an arbitrary or capricious exercise of discretion.").

Therefore, given the late appointment of counsel, as well as the unique procedural posture of this case, and the nature of the relief requested, we direct the clerk of this court to convert Anselmo's appeal into an original petition for a writ of mandamus. Because the Parole Board is a named party to this appeal, no further service of the petition is required. NRS 34.200.

It is so ORDERED.

 J.
Hardesty

 J.
Parraguirre

 J.
Stiglich

cc: Hon. James Todd Russell, District Judge
Brownstein Hyatt Farber Schreck, LLP/Las Vegas
Attorney General/Carson City
Carson City Clerk