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1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**


2 **BRYCE FRANKLIN,**

3 Petitioner-Appellant,

4 v.

No. A-1-CA-41689

Court of Appeals of New Mexico
Filed 3/13/2025 7:50 AM



Ramon J. Maestas
Chief Clerk

5 **WESTERN NEW MEXICO**
6 **CORRECTIONAL FACILITY**
7 **RECORDS COORDINATOR,**
8 **WESTERN NEW MEXICO**
9 **CORRECTIONAL FACILITY LEGAL**
10 **ACCESS DESIGNATED STAFF,**
11 **and NEW MEXICO CORRECTIONS**
12 **DEPARTMENT,**

13 Respondents-Appellees.

14 **APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY**
15 **Manuel I. Arrieta, District Court Judge**

16 Bryce Franklin
17 Las Cruces, NM

18 Pro Se Appellant

19 New Mexico Corrections Department
20 Maris Veidemanis, Chief Deputy General Counsel
21 Brenden J. Murphy, Deputy General Counsel
22 Santa Fe, NM

23 for Appellees

1 **MEMORANDUM OPINION**

2 **MEDINA, Judge.**

3 {1} Petitioner Bryce Franklin, appearing pro se, appeals the district court order
4 denying his petition for a writ of mandamus to enforce the Inspection of Public
5 Records Act (IPRA), NMSA 1978, §§ 14-2-1 to -12 (1941, as amended through
6 2023). Petitioner contends the district court abused its discretion when it found that
7 Petitioner’s records requests, made under the New Mexico Corrections
8 Department’s (NMCD) internal policies, amounted to a challenge to a condition of
9 confinement, and therefore Petitioner’s adequate remedy was to challenge his
10 conditions of confinement through a habeas corpus action as provided for under Rule
11 5-802 NMRA. Because the request forms submitted by Petitioner here are governed
12 by internal NMCD policies and not IPRA, we affirm.

13 **BACKGROUND**

14 {2} Petitioner is serving a term of life imprisonment plus seven and one-half years
15 in the custody of NMCD for a murder conviction. *See State v. Franklin*, S-1-SC-
16 35577, dec. ¶ 1 (N.M. Oct. 19, 2017) (nonprecedential). In June 2023, NMCD
17 reportedly placed Petitioner in solitary confinement pending an inmate disciplinary
18 hearing for a charge of possession of dangerous contraband.

19 {3} Petitioner in turn submitted a total of five requests for records in order to
20 prepare for his disciplinary hearing. Three of these requests were on NMCD internal

1 forms titled, “Inmate Request Form” and the other two requests were on NMCD
2 internal forms titled, “Inmate Request for Legal Access.” These forms are available
3 to inmates, pursuant to internal NMCD Policies, Legal Access, CD-010100, NMCD
4 Policies, Offender Access and Review of Records, CD-043501.

5 {4} Petitioner’s first form, dated June 15, 2023, and directed to a “Records
6 Coordinator” stated, “Would like to inspect all reviewable records in my institutional
7 file.” NMCD responded on June 29, 2023, “Please submit a request to [Unit
8 Manager] Morin.” Petitioner’s second form, dated June 15, 2023, and directed to a
9 “classification officer” requested, “Would like a copy of my current points sheet aka
10 last revised reclassification form. Would also like to review some items in my prison
11 file such as my disciplinary history.” NMCD responded on June 23, 2023, “You may
12 review but not keep the points sheet.” Petitioner’s third form, dated July 3, 2023,
13 and directed to Unit Manager Morin, requested, “Would like to request to inspect
14 prison file. More specifically, I would like to inspect records pertaining to inmate
15 disciplinary record[s] and reports and all records connected to my current
16 classification level such as current points sheet or ‘reclassification form.’” The
17 record provided on appeal does not include what if any response Petitioner received
18 from NMCD.

19 {5} Petitioner also submitted two internal inmate requests to the legal access
20 program to review NMCD policies before Petitioner’s disciplinary hearing.

1 Petitioner’s request form, dated June 15, 2023, stated, “I need to review NMCD
2 policy CD-080100 [Institutional Classification and Central Office Classification].”
3 The record does not include what if any response NMCD provided to Petitioner.
4 Petitioner’s final form, dated July 13, 2023, stated, “I need to review the following
5 policy before my disciplinary hearing NMCD CD-090100-01 [Inmate Discipline
6 procedures]; NMCD CD-090300 [Institutional Evidence/Contraband Control,
7 Tracking and Disposal].” The record does not include what if any response NMCD
8 provided to Petitioner. Nowhere in any of these forms did Petitioner assert he was
9 making a public records request under IPRA nor were these requests addressed to
10 the records custodian of NMCD.

11 {6} Following these requests, petitioner filed two “Inmate Informal Complaint”
12 forms with NMCD, pursuant to Form CD-150501.3. Petitioner’s first inmate
13 complaint form, dated July 13, 2023, asserted that he was filing the complaint against
14 “public records,” and asserted the following: “This facility has the practice of
15 refusing to provide copies of reclassification form aka points sheets or allowing
16 inspection of prison file.” NMCD staff received the complaint on July 19, 2023, and
17 on that same date recommended resolving the complaint as follows:
18 “[n]on[grievable, you have to put a date of incident, cannot be listed as ‘ongoing.’
19 You may request a point sheet through your caseworker, and request a file review
20 through Records. Attached is your most current score form.”

1 {7} Petitioner’s second inmate complaint form dated July 13, 2023, was filed
2 against “Legal Access,” and stated as follows:

3 I am being denied my right to legal access. I have no access to the law
4 library or caselaw on computer library. I have no way to order writing
5 paper due to frozen books. My requests for legal copies are impossible
6 to submit. I have submitted multiple requests to review policy on legal
7 access forms. No policies have been provided.

8 NMCD staff responded to this complaint on July 19, 2023 stating, “Non[]grievable,
9 you have to put a date of incident, cannot be listed as ‘ongoing.’”

10 {8} In July 2023, Petitioner filed a verified petition for writ of mandamus in
11 district court to compel the Western New Mexico Correctional Facility Records
12 Coordinator, Designated Legal Access Staff and the NMCD (collectively,
13 Respondents) to produce the documents in four of his requests, pursuant to IPRA
14 and seeking an award of statutory damages.¹ Petitioner argued that Respondents
15 failed to respond or produce responsive documents to four of his requests and,
16 thereby, those requests are deemed denied under IPRA. The district court denied the
17 petition, and this appeal followed.

18 **DISCUSSION**

19 {9} Petitioner contends his submission of “Inmate Request” and “Inmate Request
20 for Legal Access” forms, pursuant to internal NMCD policies equates to the
21 submission of requests for public records under IPRA and those requests were

¹Petitioner concedes that he was permitted to review a copy of his point sheet.

1 therefore “governed by IPRA.” Petitioner asserts that because IPRA controls here,
2 the district court erred in denying his petition for writ of mandamus and he is entitled
3 to production of the responsive documents and statutory damages. Respondents
4 answer that the requests contained in NMCD forms do not trigger IPRA obligations
5 because (1) the type of request forms at issue satisfy a specific purpose internally to
6 NMCD; (2) Petitioner’s forms do not specify that they are IPRA requests; and (3)
7 Petitioner’s forms were not submitted to the sole NMCD records custodian
8 designated for the purposes of IPRA.

9 **I. Petitioner’s “Inmate Request” and “Inmate Request for Legal Access”**
10 **Forms Were Not IPRA Requests**

11 {10} We review the district court’s denial of the Petition for abuse of discretion.
12 *See N.M. Found. for Open Gov’t v. Corizon Health*, 2020-NMCA-014, ¶ 15, 460
13 P.3d 43 (“We generally review the granting or denial of a writ of mandamus under
14 an abuse of discretion standard.” (internal quotation marks and citation omitted));
15 *see also* § 14-2-12(B) (providing that “[a] district court may issue a writ of
16 mandamus . . . to enforce the provisions of [IPRA]). The purpose of mandamus is
17 “to compel a public officer to perform an affirmative act where, on a given state of
18 facts, the public officer has a clear legal duty to perform the act and there is no other
19 plain, speedy, and adequate remedy in the ordinary course of the law.” *Mimbres*
20 *Valley Irrigation Co. v. Salopek*, 2006-NMCA-093, ¶ 11, 140 N.M. 168, 140 P.3d
21 1117; *see also* NMSA 1978, §§ 44-2-1 to -14 (1884, as amended through 1899)

1 (statutes regulating writs of mandamus). “A ‘ministerial duty’ arises only when the
2 law directs that a public official must act when a given state of facts exists.” *Mimbres*
3 *Valley Irrigation Co.*, 2006-NMCA-093, ¶ 11. “[W]hen a public official refuses to
4 act after such a determination is made, mandamus is the proper remedy and
5 mandamus will issue to compel acts committed to their discretion if the law requires
6 them to act.” *Wallbro v. Nolte*, 2022-NMCA-027, ¶ 20, 511 P.3d 348. “The grant or
7 denial of a petition for writ of mandamus is reviewed for an abuse of discretion.” *Id.*
8 ¶ 21 (alteration, internal quotation marks, and citation omitted). “A district court
9 abuses its discretion if its discretionary act is premised on an erroneous view of the
10 law.” *Hall v. City of Carlsbad*, 2023-NMCA-042, ¶ 5, 531 P.3d 642.

11 {11} This appeal calls in to question whether requests made on internal agency
12 forms to an official within the agency tasked with reviewing such forms, pursuant to
13 internal agency policy equates to a public records request under IPRA. We agree
14 with Respondent’s characterization of the record and conclude that the requests for
15 information contained within the “Inmate Request” and “Inmate Request for Legal
16 Access” forms did not trigger the mechanics of IPRA. We reach this conclusion
17 because the four forms Petitioner submitted are available to inmates, pursuant to
18 NMCD policies and nothing on the forms indicate or place NMCD on notice that
19 Petitioner was seeking anything other than document reviews and legal access under

1 established NMCD policies. The four forms contain no reference to IPRA or “public
2 records.”

3 {12} We acknowledge there is no statutory provision in IPRA requiring a person
4 submitting an inspection of public records to identify that the request is submitted
5 under IPRA. *See* § 14-2-8(C) (providing in part that “[a] written request shall provide
6 the name, address and telephone number of the person seeking access to the records
7 and shall identify the records sought with reasonable particularity”). And while
8 Section 14-2-8(E) provides that “[i]n the event that a written request is not made to
9 the custodian having possession of or responsibility for the public records requested,
10 the person receiving the request shall promptly forward the request to the custodian
11 of the requested public records,” under the facts of this case and for the reasons stated
12 above, the requests Petitioner submitted were not IPRA requests.

13 {13} To hold otherwise would subject NMCD to an unacceptable position of
14 assuming all submitted inmate document review request forms and all inmate
15 requests for legal access forms were submitted under IPRA; failing to do so, would
16 subject NMCD to IPRA’s statutory penalties. *See* § 14-2-11(C) (providing that
17 monetary damages shall be awarded for failure of a custodian to provide a timely
18 explanation for the denial of a request for inspection or when the denial is determined
19 to be unreasonable); *see also* § 14-2-12(D) (mandating the award of “damages, costs

1 and reasonable attorney[] fees to any person whose written request has been denied
2 and is successful in a court action to enforce the provisions of [IPRA]”).

3 {14} We recognize IPRA’s broad policy mandate for disclosure of public records.
4 See § 14-2-1 (pursuant to IPRA and subject to limited exceptions, “[e]very person
5 has a right to inspect public records of this state”). We do not suggest that Petitioner
6 or other inmates are precluded from submitting an IPRA request for public records
7 so long as it is identified in some reasonable manner as a request subject to IPRA.
8 To provide an example, Petitioner himself, in *Franklin v. N.M. Corrections*
9 *Department*, A-1-CA-38848, mem. op. ¶ 3 (N.M. Ct. App. June 14, 2022)
10 (nonprecedential), submitted two IPRA requests to NMCD, one for documents
11 related to appeals from certain inmates and the other for public records contained in
12 his inmate file.² Here, however, because Petitioner requested to review documents
13 by way of “Inmate Request” and “Inmate Request for Legal Access,” forms
14 developed for requests pursuant to internal NMCD policies, and made no reference

²We take judicial notice of the appellate records pertaining to Petitioner’s appeal in *Franklin*, A-1-CA-38848. See *State v. Deats*, 1971-NMCA-136, ¶ 12, 83 N.M. 154, 489 P.2d 662 (stating that this Court was “tak[ing] judicial notice of the appellate records pertaining to [the] defendant’s conviction”). The records in Petitioner’s prior appeal before this Court shows that the first sentence in each of Petitioner’s IPRA requests asserted in part “This is an [i]nspection of [p]ublic [r]ecords [r]equest pursuant to . . . [IPRA],” thereby plainly identifying the nature of the request to NMCD staff. NMCD responded to each of Petitioner’s IPRA requests applying IPRA, see *Franklin*, A-1-CA-38848, mem. op. ¶¶ 6, 12, and assigning each of their responses to Petitioner’s IPRA requests an IPRA tracking number.

1 to IPRA in completing those forms, IPRA was not invoked, and NMCD officials,
2 therefore, had no duty to follow IPRA procedures, rather than the NMCD internal
3 policies. *See Mimbres Valley Irrigation Co.* 2006-NMCA-093, ¶ 11 (“A ministerial
4 duty arises only when the law directs that a public official must act when a given
5 state of facts exist.” (internal quotation marks omitted)); *see also Pacheco v.*
6 *Hudson*, 2018-NMSC-022, ¶ 57, 415 P.3d 505 (holding that “the designated records
7 custodian is the only official who is assigned IPRA compliance duties”). Because
8 NMCD officials in this case did not breach a mandatory, nondiscretionary duty
9 under IPRA, mandamus is not appropriate in this case and the district court did not
10 err in denying Petitioner’s request for a writ of mandamus.

11 **CONCLUSION**

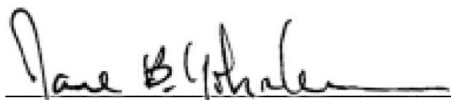
12 {15} For the foregoing reasons, we affirm.

13 {16} **IT IS SO ORDERED.**

14 
15 **JACQUELINE R. MEDINA, Judge**

16 **WE CONCUR:**

17 
18 **MEGAN P. DUFFY, Judge**

19 
20 **JANE B. YCHALEM, Judge**