

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

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MARTIN DAVID BURROLA JR.,  
*Plaintiff/Appellant,*

*v.*

ARIZONA DEPARTMENT OF CORRECTIONS,  
*Defendant/Appellee.*

No. 2 CA-CV 2017-0040  
Filed April 12, 2018

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THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
NOT FOR PUBLICATION  
*See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f).*

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Appeal from the Superior Court in Pinal County  
No. S1100CV201601061  
The Honorable Richard T. Platt, Judge Pro Tempore

**AFFIRMED**

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COUNSEL

Martin D. Burrola Jr., Glendale  
*In Propria Persona*

Mark Brnovich, Arizona Attorney General  
By Michael E. Gottfried, Assistant Attorney General, Phoenix  
*Counsel for Defendant/Appellee*

**MEMORANDUM DECISION**

Presiding Judge Staring authored the decision of the Court, in which Chief Judge Eckerstrom and Judge Brearcliffe concurred.

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STARING, Presiding Judge:

¶1 Martin David Burrola Jr. appeals from the Pinal County Superior Court’s decision to decline jurisdiction over his special-action petition against the Arizona Department of Corrections (ADOC). For the reasons that follow, we affirm the superior court’s decision.

**Factual and Procedural Background**

¶2 Burrola, who was an ADOC inmate, was placed in protective custody in February 2013, after he was threatened by another inmate for cooperating with an investigation. ADOC removed Burrola from protective custody in October 2014. Burrola unsuccessfully challenged the decision to remove him from protective custody, asserting he was still at risk. In May 2016, Burrola filed a petition for special action in the superior court, alleging that ADOC had violated his constitutional rights and seeking an order compelling his return to protective custody.

¶3 ADOC filed a response to Burrola’s petition, asserting special-action jurisdiction was not appropriate because his pending federal claim under 42 U.S.C. § 1983 sought the same relief and thus there existed an adequate remedy at law. The superior court declined to exercise special-action jurisdiction, and entered a final judgment dismissing the action. This appeal followed. We have jurisdiction pursuant to A.R.S. § 12-2101(A)(1). *See State v. Chopra*, 241 Ariz. 353, ¶¶ 4, 8 (App. 2016) (concluding § 12-2101(A)(1) confers appellate jurisdiction over superior court’s final judgment declining to accept jurisdiction over special action).

**Discussion**

¶4 The superior court has original jurisdiction to issue extraordinary writs against state officers. Ariz. Const. art. VI, § 18; *see also Ariz. Corp. Comm’n v. Superior Court*, 107 Ariz. 24, 26 (1971). Relief by extraordinary writ is available only through special action, and the court’s decision whether to accept jurisdiction is “highly discretionary.” *Forty-Seventh Legislature v. Napolitano*, 213 Ariz. 482, ¶¶ 10-11 (2006); *see Ariz. R. P.*

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Spec. Act. 1. Thus, our review of the superior court's decision to decline special-action jurisdiction is for an abuse of discretion. *Bilagody v. Thorneycroft*, 125 Ariz. 88, 92 (App. 1979). And, in general, special-action relief is not appropriate where "an equally plain, speedy, and adequate remedy" is otherwise available. See Ariz. R. P. Spec. Act. 1(a); *Neary v. Frantz*, 141 Ariz. 171, 177 (App. 1984).

¶5 In his petition below, Burrola alluded to various types of extraordinary writs, administrative review,<sup>1</sup> and even special-action jurisdiction in the court of appeals,<sup>2</sup> but did not identify what type of relief he sought nor establish any of the underlying requirements. Nor did he establish that his case required extraordinary relief by way of special action. On appeal, Burrola does no more than reassert that his constitutional rights were violated and that he is entitled to relief on the merits. He does not offer any reason why his § 1983 action could not provide an equally plain, speedy, and adequate remedy for the constitutional violations he asserts. See *Neary*, 141 Ariz. at 178 (special action not appropriate where § 1983 action is available); cf. *Zuck v. State*, 159 Ariz. 37, 42 (App. 1988) (inmate's allegation of unreasonable delay in medical treatment stated claim for relief under § 1983). Accordingly, Burrola has not established that the superior court abused its discretion in declining special-action jurisdiction.

**Disposition**

¶6 We affirm the trial court's order declining to accept special-action jurisdiction.

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<sup>1</sup>See *Rose v. Ariz. Dep't of Corr.*, 167 Ariz. 116, 117, 120-21 (App. 1991) (concluding superior court had discretion to exercise special-action jurisdiction to review inmate disciplinary decision not subject to review under Administrative Review Act). Unlike the instant case, *Rose* did not involve litigation of alleged constitutional violations. *Id.* at 117-18.

<sup>2</sup>See A.R.S. § 12-120.21(A)(4).