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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

9 || GEORGE A. TOLIVER,

Petitioner,

11 || VS.

12 OFFICE OF THE INSPECTOR  
GENERAL, et al.,

## Respondents.

Case No. 2:17-cv-00512-RFB-CWH

## ORDER

15 Petitioner has submitted a petition for a writ of mandamus. He alleges that in a prison  
16 disciplinary proceeding he was not allowed to call a witness. He was found guilty and sanctioned  
17 with 90 days in some form of disciplinary detention. Petitioner further alleges that the paperwork  
18 falsely states that he waived his right to call witnesses. Petitioner's efforts to have the inspector  
19 general investigate these events have been fruitless. He asks this court to order the inspector general  
20 to investigate the matter.

21 The All Writs Act, 28 U.S.C. § 1651, allows the Court to grant extraordinary writs where the  
22 Court has jurisdiction. However, the All Writs Act does not confer jurisdiction by itself; instead,  
23 another statutory or constitutional provision must confer jurisdiction upon the Court. Stafford v.  
24 Superior Court, 272 F.2d 407, 409 (9th Cir. 1959). Petitioner does not identify any such statutory or  
25 constitutional provision. The closest such provision is 28 U.S.C. § 1361, which states:

26 The district courts shall have original jurisdiction of any action in the nature of mandamus to  
27 compel an officer or employee of the United States or any agency thereof to perform a duty  
owed to the plaintiff.

1 Respondents are officers of the State of Nevada. They are not officers or employees of the United  
2 States within the meaning of § 1361. Therefore, this Court lacks jurisdiction to consider the Petition  
3 (#1).

4 The court will not construe the petition as a petition for a writ of habeas corpus. Petitioner  
5 currently is not in prison. Even if petitioner's claims had merit, there is no relief that the court could  
6 grant.

7 IT IS THEREFORE ORDERED that the clerk of the court file the petition for a writ of  
8 mandamus.

9 IT IS FURTHER ORDERED that this action is **DISMISSED** for lack of jurisdiction. The  
10 clerk of the court shall enter judgment accordingly and close this action.

11 DATED: January 9, 2018.



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13 RICHARD F. BOULWARE, II  
14 United States District Judge  
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