

IN THE SUPREME COURT OF THE STATE OF NEVADA

NATHAN DANIEL HENDRICKSON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 43318

FILED

SEP 27 2004

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richard*  
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of attempted theft of property with a value of \$250.00 or more. Fourth Judicial District Court, Elko County; Andrew J. Puccinelli, Judge. The district court sentenced appellant Nathan Daniel Hendrickson to serve a prison term of 12-34 months and ordered him to pay \$106.50 in restitution. Hendrickson was given credit for 37 days time served in presentence confinement.

Hendrickson's sole contention is that the district court erred at sentencing by failing to award him additional credit for time served while he was awaiting extradition from Florida. Hendrickson claims that he was incarcerated in Florida "as a consequence of the warrant for his failure to appear in Elko" for the sentencing hearing in the instant case. We conclude that although Hendrickson's argument may have merit, the district court did not err in its determination of the credit award.

Hendrickson failed to provide the district court with any documentation proving: (1) that he was incarcerated in Florida on the instant charges; and (2) exactly how long he was in custody in Florida prior to his extradition. At Hendrickson's eventual sentencing hearing in the Fourth Judicial District Court, the district court made the following statement:

I will only give him credit from the time he is here. That's all I can verify. I don't know what went on in Florida.

Moreover . . . your client wasn't here when he was supposed to be here two months ago. And therefore, I am not going to give – he's lucky he is getting that. I am giving him credit from the time he arrived here. That's all I can verify.

Accordingly, we conclude that the district court did not err in its determination of the verified amount of credit Hendrickson served in pretrial confinement.


On the other hand, Hendrickson may, in fact, be entitled to additional credit for time served. In Nieto v. State, this court stated “that a defendant is entitled to credit for time served in presentence confinement in another jurisdiction when that confinement was solely pursuant to the charges for which he was ultimately convicted” in Nevada.<sup>1</sup> We further note, however, “that the appropriate means of challenging the computation of time served pursuant to a judgment of conviction is to file a post-conviction petition for a writ of habeas corpus in the district court.”<sup>2</sup> Accordingly, we conclude that Hendrickson must


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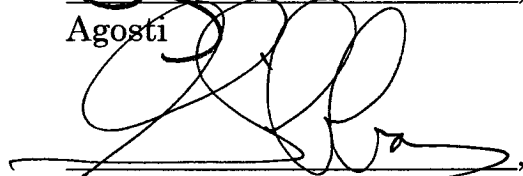
<sup>1</sup>119 Nev. 229, 232, 70 P.3d 747, 748 (2003); see also NRS 176.055(1) (“whenever a sentence of imprisonment . . . is imposed, the court may order that credit be allowed against the duration of the sentence . . . for the amount of time which the defendant has actually spent in confinement before conviction”); Anglin v. State, 90 Nev. 287, 292, 525 P.2d 34, 37 (1974) (holding that the purpose of the credit statute is “to provide credit for confinement . . . where (1) bail has been set for the defendant and (2) the defendant was financially unable to post the bail”); Kuykendall v. State, 112 Nev. 1285, 1286, 926 P.2d 781, 782 (1996).

pursue this matter by filing a petition in the district court in the first instance. Therefore, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Becker

  
\_\_\_\_\_, J.  
Agosti

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Andrew J. Puccinelli, District Judge  
Elko County Public Defender  
Attorney General Brian Sandoval/Carson City  
Elko County District Attorney  
Elko County Clerk

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... continued

<sup>2</sup>Nieto, 119 Nev. at 230 n.1, 70 P.3d at 747 n.1; see also NRS 34.724(2)(c); Pangallo v. State, 112 Nev. 1533, 1535, 930 P.2d 100, 102 (1996), limited in part on other grounds by Hart v. State, 116 Nev. 558, 1 P.3d 969 (2000).