

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDD PRYOR, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44792

FILED

JUN 08 2005

[Signature]
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER OF AFFIRMANCE IN PART AND REVERSAL AND REMAND
IN PART

This is a proper person appeal from an order of the district court denying appellant Edd Pryor, Jr.'s post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Jackie Glass, Judge.

On May 22, 2002, the district court convicted Pryor, pursuant to a guilty plea, of two counts of statutory sexual seduction. The district court sentenced Pryor to serve two concurrent terms of 24 to 60 months in the Nevada State Prison. The district court suspended Pryor's sentence and placed him on probation for a period not to exceed five years. On October 16, 2002, the district court entered an amended judgment of conviction, ordering Pryor to serve 60 days in the Clark County Detention Center and reinstating him on probation. On July 22, 2003, the district court entered a second amended judgment of conviction, adding the condition of residential confinement to the terms of Pryor's probation. Finally, on May 17, 2004, the district court entered an order revoking

Pryor's probation, executing the original sentence and amending the judgment of conviction to include 234 days' credit.

On December 13, 2004, Pryor filed a proper person post-conviction petition for a writ of habeas corpus in the district court. On December 28, 2004, and December 29, 2004, Pryor filed memoranda in support of his petition. The State opposed the petition, arguing that it was untimely. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent Pryor or to conduct an evidentiary hearing. On February 25, 2005, the district court denied Pryor's petition as untimely. This appeal followed.

In his petition, Pryor contended that he was entitled to jail-time credit for: (1) time he spent in a Mississippi jail awaiting extradition to Nevada; (2) time he spent in residential confinement; and (3) time he spent on probation. Pryor also raised challenges to his accumulation of statutory good-time credit.¹

We conclude that the district court erred in finding that Pryor's petition was untimely because it was not filed within one-year of the entry of his original judgment of conviction.² By its own language, NRS 34.726 applies only to a petition that challenges the validity of a judgment of conviction or sentence; the provision does not apply to a

¹See NRS 209.4465.

²See NRS 34.726(1).

petition that challenges the computation of time served on a judgment of conviction.

Despite the district court's erroneous conclusion that Pryor's petition was procedurally barred, the district court appeared to reach the merits of two of Pryor's claims. Specifically, the district court ruled that Pryor was not entitled to credit for time he spent in residential confinement or probation. We conclude that the district court did not err in this regard. A defendant is not entitled to credit for time spent on probation in general, or residential confinement in particular.³ We therefore affirm the district court's denial of these claims. However, the district court failed to reach the merits of Pryor's remaining claims, and this court is unable to adequately review them. We therefore reverse the district court's order in part and remand the matter for a consideration of Pryor's claims that is he entitled to credit for time spent in a Mississippi jail awaiting extradition, and that his statutory good-time credit has not been accurately recorded.

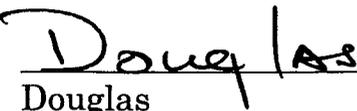
Having reviewed the record on appeal and for the reasons set forth above, we conclude that briefing and oral argument are unwarranted in this matter.⁴ Accordingly, we

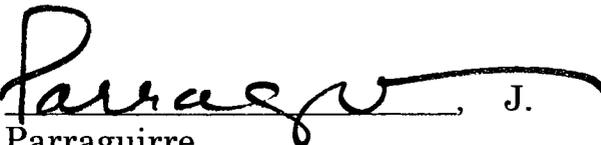
³Webster v. State, 109 Nev. 1084, 1085, 864 P.2d 294, 295 (1993).

⁴See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

ORDER the judgment of the district court AFFIRMED IN PART AND REVERSED IN PART AND REMAND this matter to the district court for proceedings consistent with this order.⁵


_____, J.
Maupin


_____, J.
Douglas


_____, J.
Parraguirre

cc: Hon. Jackie Glass, District Judge
Edd Pryor Jr.
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

⁵We have reviewed all documents that Pryor has submitted in proper person to the clerk of this court in this matter, and we conclude that he is only entitled to the relief described herein. To the extent that Pryor has attempted to present claims or facts in those submissions that were not previously presented in the proceedings below, we have declined to consider them in the first instance. This order constitutes our final disposition of this appeal. Any subsequent appeal from an order of the district court denying Pryor's remaining claims shall be docketed as a new matter.