

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN NEIL BARLOW,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 45693

**FILED**

**OCT 18 2005**

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY: *J. Richards*  
DEPUTY CLERK

This is a proper person appeal from an order of the district court denying a motion for an amended judgment of conviction to include additional credits. Eighth Judicial District Court, Clark County; Jennifer Togliatti, Judge.

On March 6, 2003, the district court convicted appellant, pursuant to a guilty plea, of one count of driving and/or being in actual physical control while under the influence of intoxicating liquor (a felony). The district court sentenced appellant to serve a term of two to five years in the Nevada State Prison. The district court provided appellant with one hundred and seven days of credit. No direct appeal was taken.

On May 27, 2005, appellant filed a proper person motion for an amended judgment of conviction to include additional credits in the district court.<sup>1</sup> The State opposed the motion. On June 21, 2005, the district court denied appellant's motion. This appeal followed.

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<sup>1</sup>NRS 34.724(2)(c) provides that a post-conviction petition for a writ of habeas corpus "[i]s the only remedy available to an incarcerated person  
*continued on next page . . .*

In his motion, appellant contended that he was entitled to approximately one hundred and eighty days of additional credits for time spent on house arrest.

Our review of the record on appeal reveals that the district court did not err in denying appellant's motion. This court recently held that house arrest is not confinement within the meaning of NRS 176.055, and thus, a defendant is not entitled to credit for time spent on house arrest.<sup>2</sup> Further, appellant agreed in the written guilty plea agreement that he was not entitled to credit for the time spent on house arrest while he completed the Serious Offender Program if he later failed the Serious Offender Program. Appellant failed the Serious Offender Program in the instant case. Therefore, we conclude that the district court did not err in denying appellant's motion.

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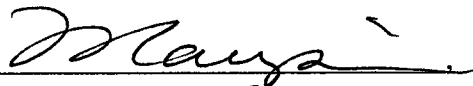
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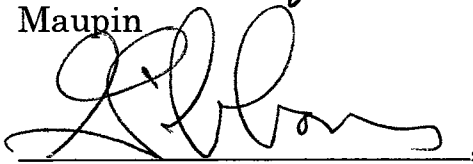
to challenge the computation of time that he has served pursuant to a judgment of conviction." Appellant's request for additional credits is a challenge to the computation of time served. Consequently, appellant should have filed a post-conviction petition for a writ of habeas corpus, not a motion for credits. See Pangallo v. State, 112 Nev. 1533, 1535, 930 P.2d 100, 102 (1996). We conclude that the procedural label is not critical in resolving the claim for credits in the instant case. See id. at 1535-36, 930 P.2d at 102.

<sup>2</sup>State v. District Court, 121 Nev. \_\_\_, 116 P.3d 834 (2005).

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.<sup>3</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Maupin

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

  
\_\_\_\_\_, J.  
Hardesty

cc: Hon. Jennifer Togliatti, District Judge  
Steven Neil Barlow  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>3</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).