

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 45694

**FILED**

OCT 17 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF 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 presentence incarceration credit. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

On December 9, 2004, the district court convicted appellant, pursuant to a guilty plea, of escape. The district court sentenced appellant to serve a term of twelve to thirty months in the Nevada State Prison. No credit for time served was awarded. No direct appeal was taken.

On May 27, 2005, and on July 18, 2005, appellant filed proper person motions for an amended judgment of conviction to include presentence incarceration credit in the district court.<sup>1</sup> The district court

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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 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  
*continued on next page . . .*

orally denied the motions, and on August 9, 2005, the district court entered an amended judgment of conviction in which the district court denied the motions for additional credits in writing. This appeal followed.

In his motions, appellant contended that he was entitled to approximately one hundred and eighty days of additional credits for time spent in confinement prior to entry of the judgment of conviction in the instant case.

Our review of the record on appeal reveals that the district court did not err in denying appellant's motions. NRS 176.055(2)(a) provides that a defendant who is convicted of a subsequent offense committed while in custody on a prior charge is not entitled to any credit on the subsequent sentence. Appellant was in custody of the Nevada Department of Corrections for a conviction in district court case number C184794 when he committed the instant offense—escape from the Jean Conservation Camp. Therefore, appellant is not entitled to any credit for presentence incarceration in the instant case.

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*... continued*

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.

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>2</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Douglas, J.  
Douglas

Rose, J.  
Rose

Parraguirre, J.  
Parraguirre

cc: Hon. Donald M. Mosley, District Judge  
Steven Neil Barlow  
Attorney General Brian Sandoval/Carson City  
Attorney General Brian Sandoval/Las Vegas  
Clark County Clerk

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