

IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMAS P. NICOSIA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46065

FILED

JAN 19 2006

ORDER OF REVERSAL AND REMAND

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

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

On June 17, 2004, the district court convicted appellant, pursuant to a guilty plea, of attempted aggravated stalking. The district court sentenced appellant to serve a term of eighteen to sixty months in the Nevada State Prison. Appellant was awarded "FULL CREDIT for time served." Appellant did not file a direct appeal.

On August 9, 2005, appellant filed a proper person motion for an amended judgment of conviction to include jail time credit.¹ Appellant

¹NRS 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

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claimed that he was entitled to 78 days' credit for the time he was incarcerated prior to sentencing. The State opposed the motion, arguing that appellant had already been awarded full credit for time served. On September 8, 2005, the district court summarily denied the motion.

The judgment of conviction indicates that appellant was entitled to credit for time served. The judgment of conviction, however, is deficient because it does not specify the amount of credit appellant is entitled to.² Accordingly, we conclude that the district court erred by denying appellant's motion to amend the judgment of conviction to include jail time credits. We therefore reverse the district court's denial of appellant's motion and remand this matter to the district court for further proceedings to determine how much credit for time served appellant is entitled to, and for entry of an amended judgment of conviction specifying the amount of credit awarded.


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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 this instance. See id. at 1535-36, 930 P.2d at 102.

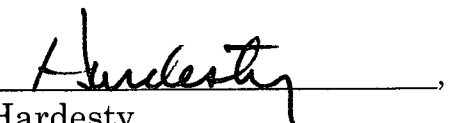
²See NRS 176.015(d) (the judgment of conviction must set forth "[t]he exact amount of credit granted for time spent in confinement before conviction, if any").

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is entitled only to the relief granted herein, and that briefing and oral argument are unwarranted.³ Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.⁴


_____, J.
Maupin


_____, J.
Gibbons


_____, J.
Hardesty

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

⁴This order constitutes our final disposition of this appeal. Any subsequent appeal shall be docketed as a new matter.

cc: Hon. Donald M. Mosley, District Judge
Thomas P. Nicosia
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk