

IN THE SUPREME COURT OF THE STATE OF NEVADA

KENNETH THOMAS JONES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46394

FILED

MAR 27 2006

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 battery with intent to commit sexual assault. Second Judicial District Court, Washoe County; Janet J. Berry, Judge. The district court adjudicated appellant Kenneth Thomas Jones a habitual criminal and sentenced him to a prison term of 10 to 25 years.

Jones contends that the district court erred by not granting him enough credit for presentence confinement. At the time Jones was arrested, he was on parole for a previous crime committed in Nevada. At the sentencing hearing on the instant offense, Jones' counsel informed the district court that upon his arrest for the instant offense on April 22, 2005, Jones had a hold lodged against him for a parole violation. Jones' sentence for the previous case expired on August 14, 2005. Jones was sentenced for the instant offense on November 1, 2005. The district court granted him credit for the 79-day period between the expiration of his previous sentence and sentencing for the instant offense, but denied credit for the period prior to the expiration of the previous sentence. Jones argues that the district court should have granted the additional credit.

NRS 176.055(2)(b) provides that a defendant convicted of a subsequent offense which was committed while he was "on probation or

parole from a Nevada conviction is not eligible for any credit on the sentence for the subsequent offense for the time he has spent in confinement which is within the period of the prior sentence, regardless of whether any probation or parole has been formally revoked." Because the period for which Jones seeks credit was within the period of the prior sentence, the district court did not err by denying the credit.

Having considered appellant's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.

Douglas, J.
Douglas

Becker, J.
Becker

Parraguirre, J.
Parraguirre

cc: Hon. Janet J. Berry, District Judge
Washoe County Public Defender
Attorney General George Chanos/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk