

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSEPH GEORGE TAYLOR,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46401

FILED

JUL 28 2006

WANNETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court dismissing a post-conviction petition for a writ of habeas corpus. Sixth Judicial District Court, Pershing County; John M. Iroz, Judge.

On May 7, 1991, the district court convicted appellant, pursuant to a jury verdict, of sixteen counts of incest in district court case number C93368 in the Eighth Judicial District Court. The district court sentenced appellant to serve a total of ninety-six years in the Nevada State Prison. On appeal, this court reversed and vacated twelve of the counts in the judgment of conviction on the grounds that they were based upon conduct occurring outside the statute of limitations.¹ On October 28, 1994, the district court entered a second amended judgment of conviction reflecting that counts 1 through 12 had been vacated and reflecting that appellant was to serve four consecutive terms of eight years for counts 13 through 16.

On March 24, 2005, appellant filed a post-conviction petition for a writ of habeas corpus in the Sixth Judicial District Court, the district court for the county in which he was incarcerated. The State opposed the

¹Taylor v. State, Docket No. 22373 (Order Correcting Judgment of Conviction and Sentencing, July 9, 1993).

petition. Appellant filed a response. On October 4, 2005, the district court entered an order dismissing appellant's petition. This appeal followed.

In his petition, appellant first claimed that the Department of Corrections failed to apply credit to counts 13 through 16 after this court vacated counts 1 through 12. Appellant claimed that he was deprived of flat time, statutory good time and work credits accrued from the date of sentencing through the date of this court's order vacating counts 1 through 12.

Based upon our review of the record on appeal, we conclude that the district court did not err in determining that this claim lacked merit. An affidavit from Paula Miller, the Correctional Case Records Manager for the Nevada Department of Corrections, reveals that the Department applied flat time, statutory good time and work credits accrued from the date of sentencing towards count 13. Ms. Miller attached a copy of Time Audits supporting her affidavit. Because the record demonstrates that appellant received the credit sought in his petition, the district court did not err in denying this claim.

Next, appellant claimed that the district court failed to provide him with credit for presentence incarceration. This court recently held that a claim for presentence credit was a challenge to the validity of the judgment of conviction and sentence, and this challenge must be raised in a post-conviction petition for a writ of habeas corpus filed in the district court in which the petitioner was convicted.² Appellant's claim for presentence credit in his conviction arising from the Eighth Judicial District Court was improperly raised in the petition filed in the Sixth

²Griffin v. State, 122 Nev. ___, ___ P.3d ___ (Adv. Op. No. 63, July 13, 2006).

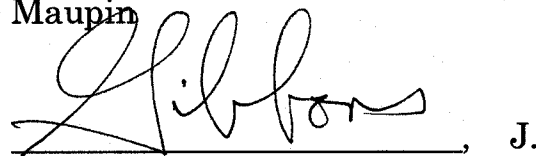
Judicial District Court. Although appellant's claim for presentence credit was filed in the wrong district court, we conclude that the district court properly denied the claim as appellant failed to provide any facts in support of his claim for presentence credit.³

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.⁴ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁵

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

³See Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984).

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

⁵We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.

cc: Hon. John M. Iroz, District Judge
Joseph George Taylor
Attorney General George Chanos/Carson City
Pershing County Clerk