

IN THE SUPREME COURT OF THE STATE OF NEVADA

NICHOLAS PAUL CONNELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46606

FILED

MAY 10 2006

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

This is an appeal from an amended judgment of conviction. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

Appellant Nicholas Paul Connell was originally convicted of one count of robbery with use of a firearm. The district court sentenced Connell to serve two consecutive prison terms of 24 to 60 months and awarded 3 days credit for time served. Connell appealed, and this court remanded the case for recalculation of credit for time served.¹ After conducting a hearing on the issue, the district court entered an amended judgment of conviction granting Connell 25 days credit for time served.

Connell's sole contention is that the district court erred in its determination of presentence incarceration credit because the credit awarded was based on mere speculation, rather than evidence in the record. We conclude that Connell's contention lacks merit.

NRS 176.055(1) states, in part, "whenever a sentence of imprisonment . . . is imposed, the court may order that credit be allowed

¹Connell v. State, Docket No. 45670 (Order Affirming in Part, Vacating in Part and Remanding, October 24, 2005).

against the duration of the sentence . . . for the amount of time which the defendant has actually spent in confinement before conviction, unless [his] confinement was pursuant to a judgment of conviction for another offense." This court has recognized that the purpose of NRS 176.055(1), despite its discretionary language, is to ensure that all time served is credited toward a defendant's ultimate sentence.²

In this case, we conclude that Connell has failed to show that the district court erred in awarding 25 days presentence incarceration credit. The parties agree that Connell spent 85 days in jail before sentencing in this case, and the presentence investigation report (PSI) stated that he received credit for at least 60 of those days in another criminal case.³ Although Connell alleges that the PSI is inaccurate, there is nothing in the record on appeal supporting his claim. Connell has failed to provide this court with a copy of the PSI, and there are no custody records, judgments of conviction from Connell's other criminal cases or other documentation included in the record indicating that he did not receive credit for the 60 days he spent in custody in another criminal case.⁴ Accordingly, Connell has failed to demonstrate that the district court erred.

²See Kuykendall v. State, 112 Nev. 1285, 926 P.2d 781 (1996).

³Although Connell has not provided the PSI for this court's review, the parties discussed the contents of the PSI at the hearing to determine presentence credit.

⁴See Jacobs v. State, 91 Nev. 155, 158, 532 P.2d 1034, 1036 (1975) (appellant must provide materials necessary for appellate review).

Having considered Connell's contentions and concluded that it lacks merit, we

ORDER the judgment of conviction AFFIRMED.

Douglas, J.
Douglas

Becker, J.
Becker

Parraguirre, J.
Parraguirre

cc: Hon. Steven P. Elliott, District Judge
Washoe County Public Defender
Attorney General George Chanos/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk