

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDD PRYOR, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46736

FILED

JUL 28 2006

JANETTE 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 denying appellant's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Jackie Glass, Judge.

On May 22, 2002, the district court convicted appellant, pursuant to a guilty plea, of two counts of statutory sexual seduction. The district court sentenced appellant to serve two concurrent terms of 24 to 60 months, suspended the sentences, and imposed probationary terms not to exceed 5 years. No direct appeal was taken.

On October 16, 2002, after a notice of intent to seek probation revocation had been filed by the State, the district court amended the judgment of conviction to include that appellant was required to serve 60 days flat time in the Clark County Detention Center as a condition for reinstatement to probation. On July 22, 2003, the district court amended the judgment of conviction to include house arrest as a condition of probation. On May 17, 2004, the district court entered an order revoking probation and executing the original sentences imposed. The district court

further provided appellant with 234 days of credit for time served. No appeals were taken from any of the amended judgments of conviction or the order revoking probation.

On December 13, 2004, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court.¹ The State opposed the petition. On February 25, 2005, the district court denied the petition. This court affirmed the order of the district court in part, but reversed and remanded for the district court to consider appellant's claim that he was entitled to additional credit for time spent awaiting extradition and appellant's claim that his statutory good time credit was not being accurately recorded.² Upon remand, the district court concluded that appellant was entitled to an additional 37 days of credit for time spent confined awaiting extradition, and the district court entered a "second" amended judgment of conviction on July 14, 2005, memorializing this decision.

On October 24, 2005, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the motion. Appellant filed a response. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to

¹It appears that appellant re-filed his petition on December 28, 2004.

²Pryor v. State, Docket No. 44792 (Order of Affirmance in Part, Reversal and Remand in Part, June 8, 2005).

represent appellant or to conduct an evidentiary hearing. On February 2, 2006, the district court denied appellant's petition. This appeal followed.

In his petition, appellant raised the following claims: (1) he was improperly denied transcripts at State expense; (2) his equal protection rights were violated because he was not provided with statutory good time credit for the time spent on house arrest pursuant to NRS 209.4465 (3) his due process rights were violated when the State failed to file a motion to seek reduction of his sentence because of the help he provided in a murder case; and (4) he was deprived of a direct appeal without his consent.

To the extent that appellant challenged the validity of his judgment of conviction and sentence, appellant's petition was untimely filed as it was filed more than three years after entry of the original judgment of conviction.³ Appellant's petition was procedurally barred absent a demonstration of cause for the delay and prejudice.⁴ Appellant did not attempt to demonstrate good cause for the delay, and thus, the district court did not err in determining that the petition was procedurally time-barred to the extent that it challenged the validity of the judgment of conviction and sentence.

Appellant's claim relating to statutory good time credit was a challenge to the computation of time served, and thus, it was not subject

³See NRS 34.726(1).

⁴See id.

to the procedural time bar set forth in NRS 34.726. In reviewing the record on appeal, we conclude that the district court did not err in denying relief. NRS 209.4465 provides that an offender may receive statutory good time credit for the period spent actually incarcerated, the period spent in residential confinement, and the period the offender is in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4486 or NRS 209.4888. Appellant's time spent on house arrest as a condition of probation did not satisfy any of these conditions.⁵ Appellant further failed to demonstrate any violation of Equal Protection.⁶

Finally, appellant's claim relating to transcripts is not properly raised in a post-conviction petition for a writ of habeas corpus as it does not implicate the validity of the judgment of conviction or sentence,


⁵See NRS 209.429 (describing the residential confinement program for DUI offenders); NRS 209.432(2) (providing that residential confinement for purposes of credits on terms of imprisonment does not include residential confinement/house arrest ordered as a condition of probation); NRS 209.4886 (describing the judicial program for reentry of offenders); NRS 209.4888 (describing a correctional program established by the Director of the Department of Corrections); see also State v. District Court, 121 Nev. ___, 116 P.3d 834 (2005) (providing that house arrest is not confinement within the meaning of NRS 176.055, and thus, a defendant is not entitled to credit for time spent on house arrest).


⁶Plyler v. Doe, 457 U.S. 202 (1982); Armijo v. State, 111 Nev. 1303, 904 P.2d 1028 (1995).

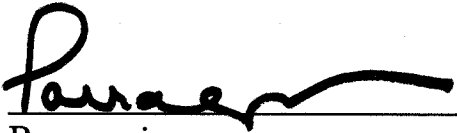
the computation of time served, or the legality of the confinement.⁷ Therefore, the district court did not err in denying this claim.

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.⁸ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Douglas


_____, J.
Becker


_____, J.
Parraguirre

cc: Honorable Jackie Glass, District Judge
Edd Pryor Jr.
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

⁷See NRS 34.724; NRS 34.360.

⁸See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).