

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARIA GOMEZ A/K/A VERONICA
FERNANDEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 47298

FILED

SEP 14 2006

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. P. [Signature]*
CHIEF DEPUTY CLERK

This is an appeal from a district court order revoking probation. Fourth Judicial District Court, Elko County; Andrew J. Puccinelli, Judge.

Appellant Maria Gomez was convicted, pursuant to a guilty plea, of grand larceny. The district court sentenced Gomez to serve a prison term of 12 to 32 months. It further ordered the sentence to be suspended and placed Gomez on probation for a period not to exceed 36 months. Gomez did not file a direct appeal.

Gomez absconded from her probation and a bench warrant issued for her arrest. Thereafter, Gomez committed several felonies in California. She was convicted of these felonies in two separate California courts, and one of the courts imposed her sentences "to run concurrently with any other sentence imposed." In Nevada, the district court conducted a probation revocation hearing, revoked Gomez's probation, reinstated her original sentence, and credited her sentence for 119 days time served. Gomez presents two issues for our review.

First, Gomez contends that the district court erred by denying her credit for time served on a California sentence. She specifically argues that because "the California courts made their sentences concurrent with

the Nevada sentence it is clear that the time spent after the sentences were declared concurrent should have counted against both the Nevada sentence and the California sentences." We disagree.

Gomez has not demonstrated that the California courts did anything more than dictate how her California sentences were to be served. Nor has she cited authority for her argument that the California sentences affect how her prior Nevada sentence will be served. We conclude that the time Gomez served in California was for offenses committed in California and cannot be credited against her Nevada sentence.¹

Second, Gomez contends that the district court erred by imposing her Nevada sentence to run consecutively to her California sentences. She specifically claims that by running her Nevada sentence consecutively to her California sentences, the district court improperly increased the Nevada sentence and violated the Double Jeopardy Clause. We disagree.

Although the district court had discretion to run Gomez's Nevada sentence concurrently with her California sentences, it declined to do so.² The mere fact that Gomez's Nevada sentence will run consecutively to her California sentences does not change or increase the Nevada sentence in any way. Accordingly, we conclude that the district

¹NRS 176.055(2)(b); Gaines v. State, 116 Nev. 359, 364, 998 P.2d 166, 169 (2000).

²NRS 176.035(2); Gaines, 116 Nev. at 365, 998 P.2d at 169.

court did not abuse its discretion and its decision did not implicate the Double Jeopardy Clause.³

Having considered Gomez's contentions and concluded that they lack merit, we

ORDER the judgment of the district court AFFIRMED.

Becker, J.
Becker

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

cc: Hon. Andrew J. Puccinelli, District Judge
Elko County Public Defender
Attorney General George Chanos/Carson City
Elko County District Attorney
Elko County Clerk

³See Miranda v. State, 114 Nev. 385, 386, 956 P.2d 1377, 1378 (1998) ("The Double Jeopardy Clause of the United States Constitution precludes courts from increasing a sentence when the defendant has a reasonable expectation that the sentence is final.").