

IN THE SUPREME COURT OF THE STATE OF NEVADA

GAYLON MICHAEL TAYLOR,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 47576

FILED

OCT 13 2006

ORDER OF AFFIRMANCE

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

This is a proper person appeal from an order of the district court denying a motion for credit for time served. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

On April 16, 2002, the district court convicted appellant, pursuant to a guilty plea, of one count of possession of a stolen motor vehicle. The district court sentenced appellant to serve a term of thirty-six to one hundred and twenty months in the Nevada State Prison. The district court imposed this sentence to run concurrently to any other sentence appellant was currently serving. The district court provided appellant with one day of credit for time served. No direct appeal was taken.

On August 4, 2003, appellant filed a motion for credit for time served in the district court. The State opposed the motion. Appellant filed a response. Appellant then filed a motion to supplement his motion for credit. The State opposed the motion. On June 6, 2006, the district court denied the motion for credit. This appeal followed.

In his motion, appellant claimed that he should receive 456 days of credit for time served. Appellant reasoned that because a hold was placed on him in the instant case while he was serving a sentence for

another judgment of conviction that he should receive credit for the time while the hold was in effect. Appellant further claimed that he should receive credit because the sentence in the instant case was imposed to run concurrently with the other district court case.

Based upon our review of the record on appeal, we conclude that the district court did not err in denying appellant's motion. 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 in compliance with the requirements of NRS chapter 34 that pertain to a petition that challenges the validity of the judgment of conviction.¹ Although appellant's motion was not in compliance with all of the requirements of NRS chapter 34, we conclude that appellant's claim was properly considered on the merits because this court's holding in Griffin has prospective effect only.

Appellant did not demonstrate that he was entitled to relief because the record does not support his claim for credits. NRS 176.055(1) provides that a defendant will be given credit for the amount of time actually spent in confinement before the conviction, unless the confinement was pursuant to the judgment of conviction for another offense. Appellant was not entitled to credit from January 16, 2001, through April 16, 2002, in the instant case as he was incarcerated pursuant to a judgment of conviction in a different case. Appellant's reliance upon Johnson is misplaced as Johnson relates to concurrent

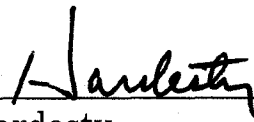
¹Griffin v. State, 122 Nev. ___, 137 P.3d 1165 (2006).

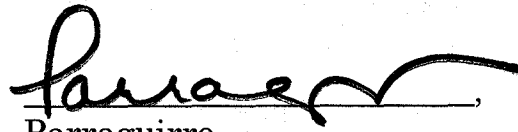
sentences within a single judgment of conviction and not concurrent sentences between separate judgments of conviction.² Therefore, we affirm the order of the district court.

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.³ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Becker


_____, J.
Hardesty


_____, J.
Parraguirre

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

²Johnson v. State, 120 Nev. 296, 298, 89 P.3d 669, 670 (2004).

³See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).