

IN THE SUPREME COURT OF THE STATE OF NEVADA


PARIS MAXWELL, III A/K/A PARIS
MAXWELL, II,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 47709

FILED

JAN 10 2007

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge.

On April 2, 2003, the district court convicted appellant, pursuant to a guilty plea, of two counts of robbery with the use of a deadly weapon. The district court sentenced appellant to serve a total of 12 to 30 years in the Nevada State Prison. No direct appeal was taken.

On July 28, 2005, appellant filed a motion to amend the judgment of conviction in the district court. Appellant sought 332 days of credit for time served. The State opposed the grant of 332 days, but conceded that appellant was entitled to 107 days of credit. On October 7, 2005, the district court entered an amended judgment of conviction, providing appellant with 107 days of credit for time served. No appeal was taken.

On April 24, 2006, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition, and appellant filed a response. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to conduct an evidentiary hearing. On June 29, 2006, the district court denied appellant's petition. This appeal followed.

In his petition, appellant claimed that he should have received a total of 326 days of credit for time served, and thus, he should be provided with credit for an additional 219 days. Appellant asserted that he was in custody from the time he was indicted by the grand jury to the rendition of sentence.

The district court denied appellant's petition as untimely filed pursuant to NRS 34.726(1). However, that decision was incorrect. Prior to this court's recent holding in Griffin v. State,¹ a claim for presentence credit could be raised in a post-conviction petition for a writ of habeas corpus as a challenge to the computation of time served.² A claim challenging the computation of time served is not subject to the procedural time bar set forth in NRS 34.726. Nevertheless, we affirm the decision of the district court because we conclude that the district court reached the correct result in denying the petition.³

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 failed to demonstrate that he was entitled to additional credit in the instant case as the record indicates that appellant was in federal custody during a portion of the time period alleged.⁴

¹122 Nev. ___, 137 P.3d 1165 (2006).

²See Pangallo v. State, 112 Nev. 1533, 930 P.2d 100 (1996) overruled by Griffin, 122 Nev. ___, 137 P.3d 1165.

³See generally Kraemer v. Kraemer, 79 Nev. 287, 291, 382 P.2d 394, 396 (1963) (holding that a correct result will not be reversed simply because it is based on the wrong reason).

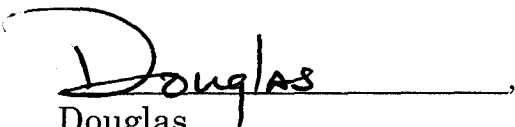
⁴We note that appellant sought credit for the same time period in his motion to amend the judgment of conviction, and the documents relating
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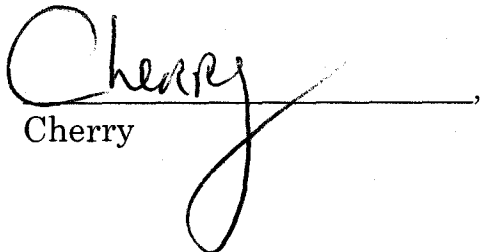
Appellant would not be entitled to credit in the instant case for time spent in federal custody. Because appellant failed to demonstrate that he was entitled to additional credit, we affirm the decision of the district court to deny the petition.

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.⁵ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁶


Gibbons J.


Douglas J.


Cherry J.

... continued

to that motion indicate that appellant was in federal custody during most of the time period alleged. Appellant was provided 107 days of credit for the time spent in the Clark County Detention Center on these charges.

⁵See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁶We 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. Stewart L. Bell, District Judge
Paris Maxwell III
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk