IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID A. MELENDREZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48138

FILED

MAY 24 2007

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a motion for an amended judgment of conviction. Eighth Judicial District Court, Clark County; Joseph T. Bonaventure, Judge.

On January 19, 2006, the district court convicted appellant, pursuant to a guilty plea, of driving and/or being in actual physical control while under the influence of intoxicating liquor in district court case number C199532. The district court sentenced appellant to serve a term of twelve to thirty months in the Nevada State Prison. No direct appeal was taken.

On June 5, 2006, appellant filed a motion for an amended judgment of conviction to include 182 days of credit. On June 22, 2006, the district court denied the motion. No appeal was taken from the this order.

On July 3, 2006, appellant filed a second motion for an amended judgment of conviction to include 182 days of credit. On July 20, 2006, the district court denied the motion. No appeal was taken from the this order.

On August 1, 2006, appellant filed a third motion for an amended judgment of conviction to include 182 days of credit. The State

opposed the motion. On August 23, 2006, the district court denied the motion. This appeal followed.

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 the motion was properly considered as such because this court's holding in Griffin has prospective effect only. However, appellant's motion constituted his third motion seeking the same 182 days of credit. Because the district court had considered and denied the previous two motions and because appellant failed to appeal from the orders denying the motions, we conclude that the district court did not abuse its discretion in determining that this motion violated EDCR 7.12, which prohibits multiple applications to the district court.[2] Therefore, we affirm the order of the district court.

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

[2]EDCR 7.12 provides:

> When an application or a petition for any writ or order shall have been made to a judge and is pending or has been denied by such judge, the same application, petition or motion may not again be made to the same or another district judge, except in accordance with any applicable statute and upon the consent in writing of the

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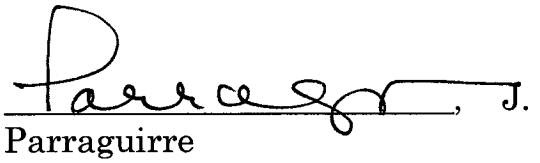
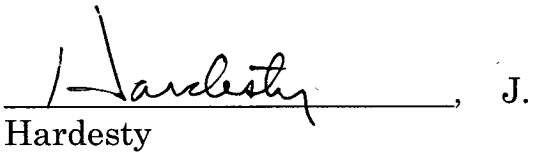
Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.[3] Accordingly, we

ORDER the judgment of the district court AFFIRMED.[4]



_____, J.
Parraguirre



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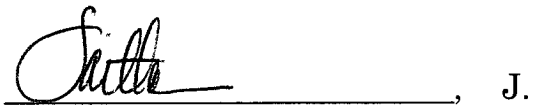

_____, J.
Saitta

cc: Eighth Judicial District Court Dept. 6, District Judge
David A. Melendrez
Attorney General Catherine Cortez Masto/Carson City
Attorney General Catherine Cortez Masto/Las Vegas
Clark County District Attorney David J. Roger
Eighth District Court Clerk

. . . continued

judge to whom the application, petition or motion was first made.

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

[4]We 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.