


IN THE SUPREME COURT OF THE STATE OF NEVADA

LUIS ANGEL CANDELAS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48524

FILED

MAY 10 2007

JANE T. M. BLOOM
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from the denial of a proper person motion for credit for time served. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

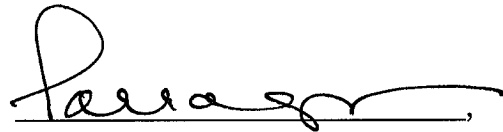
On June 6, 2005, the district court convicted appellant, pursuant to a guilty plea, of failure to stop required on signal of police officer. The district court sentenced appellant to serve a term of 24 to 60 months in prison, suspended the sentence, and placed appellant on probation for an indefinite term not to exceed three years. The district court revoked appellant's probation on September 27, 2005 and ordered appellant to serve his original sentence of 24 to 60 months.

Defendant filed a motion seeking 560 days' credit for time served. In an amended judgment of conviction entered on May 25, 2006, appellant received credit for time served in the amount of 335 days. The district court ruled at a hearing on the motion that if appellant could establish that he was entitled to an additional 225 days the district court would award those credits. Appellant then filed the instant motion seeking an additional 225 days' credit. The district court denied the motion, and 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 appellant's claim was properly considered on the merits because this court's holding in Griffin has prospective effect only.

Appellant's motion failed to provide any evidence that he was entitled to an additional 225 days' credit. We therefore conclude the district court did not err in denying the motion. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Parraguirre


_____, J.
Hardesty


_____, J.
Saitta

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

cc: Hon. Donald M. Mosley, District Judge
Luis Angel Candelas
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk