

IN THE SUPREME COURT OF THE STATE OF NEVADA

RENEE NINA BRIGGS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49939

FILED

NOV 16 2007

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

ORDER OF REMAND

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of escape. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge. The district court sentenced appellant Renee Nina Briggs to serve a prison term of 12-30 months to run consecutively to the sentence imposed in district court case no. CR04-2352, and ordered her to pay \$400 in restitution.

Briggs' sole contention is that the district court erred at sentencing by failing to award her credit for time served in presentence confinement.¹ Briggs claims that she is entitled to credit for the 37 days she served between the time of her arraignment on May 30, 2007, when bail, which she was unable to pay, was set and the date of her sentencing on July 6, 2007.² Briggs also claims that she may be entitled to additional

¹See NRS 176.055(1) ("whenever a sentence of imprisonment . . . is imposed, the court may order that credit be allowed against the duration of the sentence . . . for the amount of time which the defendant has actually spent in confinement before conviction, unless his confinement was pursuant to a judgment of conviction for another offense"); see also State v. Dist. Ct. (Jackson), 121 Nev. 413, 116 P.3d 834 (2005).

²See Anglin v. State, 90 Nev. 287, 292, 525 P.2d 34, 37 (1974); Kuykendall v. State, 112 Nev. 1285, 1286, 926 P.2d 781, 782 (1996).

credit beyond the 37 days because her previous sentence expired. In fact, at the sentencing hearing, the State informed the district court that Briggs was “only being held pursuant to this charge.”

At the hearing in the district court to determine whether Briggs was entitled to credit for time served, the State reiterated the argument made at the sentencing hearing, stating that Briggs remained in custody after her arraignment due to her inability to post bail, and “that out of fairness she could have been legally on the street for a part of that period of time,” and was, “at least,” entitled to the 37 days requested. A representative from the Division of Parole and Probation disagreed and stated that Briggs “escaped from house arrest, which was a 317 Program as an inmate,” and therefore, was not entitled to credit, “[r]egardless of whether the Court granted her the opportunity to . . . bail out, she still had gotten her credit.” As reflected in the judgment of conviction, the district court did not award Briggs any credit for time served.

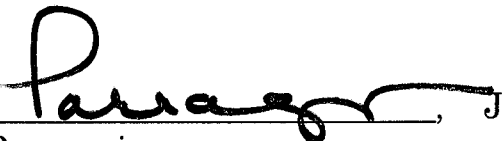
On appeal, the State concedes error and agrees with Briggs that she is entitled to credit “for presentencing confinement for all periods after her underlying sentence expired and she [sic] was being held in the Washoe County Jail only on the [instant] escape charge.” We agree, however, it is unclear from the record on appeal when exactly, and if, Briggs’ prior sentence expired. Without such information, we are unable to determine whether Briggs is entitled to any credit for time served. Additionally, we note that Briggs remained in custody after her arraignment on the escape charge because she was unable to post the \$10,000 bail set by the district court, and this court has stated that the purpose of the credit statute is “to provide credit for confinement . . .

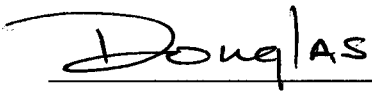
where (1) bail has been set for the defendant and (2) the defendant was financially unable to post the bail.³ Therefore, we conclude that this matter must be remanded to the district court for the purpose of conducting a hearing to determine if and when Briggs' prior sentence expired and how much credit for time served she is entitled.

Accordingly, we

ORDER this matter REMANDED to the district court for proceedings consistent with this order.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

cc: Hon. Steven R. Kosach, District Judge
Washoe County Public Defender
Attorney General Catherine Cortez Masto/Carson City
Attorney General Catherine Cortez Masto/Reno
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

³Anglin, 90 Nev. at 292, 525 P.2d at 37 (emphasis added).