IN THE SUPREME COURT OF THE STATE OF NEVADA

PERCY LAVAE BACON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50612

FILED

MAY 15 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Joseph T. Bonaventure, Judge.

On January 19, 2006 the district court convicted appellant, pursuant to a jury verdict, of 5 counts of burglary (counts 15, 18, 21, 24 and 27); 5 counts of forgery (counts 16, 19, 22, 25, and 28); 3 counts of category B felony theft (counts 17, 20 and 26); and 2 counts of category C felony theft (counts 23 and 29). The district court sentenced appellant to serve the following terms in the Nevada State Prison: 5 terms of 3 to 10 years on the burglary counts (counts 15, 18, 21, 24 and 27), 5 terms of 1 to 3 years on the forgery counts (counts 16, 19, 22, 25, and 28), 3 terms of 22 to 96 months on the category B felony theft counts (counts 17, 20 and 26), and 2 terms of 14 to 48 months on the category C felony theft counts. The district court ordered all of the burglary counts to run consecutively to

each other and all of the forgery and theft counts to run concurrently with all counts. This court affirmed the district court judgment of conviction on appeal.[1] The remittitur issued on May 3, 2007.

On September 18, 2007, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. On October 23, 2007, appellant filed a supplemental memorandum. On October 24, 2007, appellant filed an amended petition for a writ of habeas corpus in the district court. On October 29, 2007, appellant filed an additional supplemental memorandum. The State opposed the petition. 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 January 3, 2008, the district court denied appellant's petition. This appeal followed.

In his petition, appellant contended that his presentence confinement credit should be applied to each of his concurrent and consecutive sentences. Specifically, appellant claimed that NRS 176.055 provided that "credit for time served in presentence confinement may not be denied to a defendant by applying it only to one of the multiple sentences."[2] Appellant's contention lacked merit. NRS 176.055 governs

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[1]Bacon v. State, Docket No. 46576 (Order of Affirmance, April 6, 2007).

[2]Notably, the language appellant attributed to NRS 176.055 is not found in that statute. Instead, that language, which was misquoted by appellant, is set forth in this court's decision in Johnson v. State, 120 Nev.

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the application of credit for presentence confinement.[3] This court has

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296, 89 P.3d 669 (2004). In that case, this court concluded that, "credit for time served in presentence confinement may not be denied to a defendant by applying it to only one of multiple concurrent sentences." Id. at 299, 89 P.3d at 671 (emphasis added).

[3]NRS 176.055 provides:

> 1. Except as otherwise provided in subsection 2, whenever a sentence of imprisonment in the county jail or state prison is imposed, the court may order that credit be allowed against the duration of the sentence, including any minimum term thereof prescribed by law, 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. Credit allowed pursuant to this subsection does not alter the date from which the term of imprisonment is computed.
>
> 2. A defendant who is convicted of a subsequent offense which was committed while he was:
>
> (a) In custody on a prior charge is not eligible for any credit on the sentence for the subsequent offense for time he has spent in confinement on the prior charge, unless the charge was dismissed or he was acquitted.
>
> (b) Imprisoned in a county jail or state prison or on probation or parole from a Nevada

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noted that "the purpose of NRS 176.055 . . . is 'to ensure that all time served is credited towards a defendant's ultimate sentence.'"[4] Here, appellant's presentence confinement credits will be applied to his first burglary count (count 15) and to the forgery and theft counts (counts 16, 17, 19, 20, 22, 23, 25, 26, 28, and 29), which appellant is serving concurrently. Because the district court imposed appellant's sentences for the remaining burglary counts (counts 18, 21, 24 and 27) to run consecutively to each other and count 15, rather than concurrently, he is not entitled to have the presentence or time-served credit applied toward his sentences for those counts.[5] There is simply no support for appellant's contention that his presentence confinement credits should be applied to each of his consecutive sentences. Therefore, the district court did not err in denying appellant's claim.

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> conviction is not eligible for any credit on the sentence for the subsequent offense for the time he has spent in confinement which is within the period of the prior sentence, regardless of whether any probation or parole has been formally revoked.

[4]Johnson, 120 Nev. at 299, 89 P.3d at 671 (emphasis in original) (quoting Kuykendall v. State, 112 Nev. 1285, 1287, 926 P.2d 781, 783 (1996)).

[5]See id.; State v. Tauiliili, 29 P.3d 914, 918 (2001).

Appellant also raised several claims previously considered by this court in appellant's direct appeal.[6] Specifically, appellant claimed that: (1) appearance before the grand jury in physical restraints and jail clothing biased the grand jury against him and violated his due process rights and right to the presumption of innocence; (2) the district court abused its discretion in denying his pre-trial petition for a writ of habeas corpus; (3) there was no probable cause to indict the petitioner and insufficient evidence to convict the petitioner, due to the State's use of a "fraudulent" and "manufactured" affidavit during the grand jury proceedings and at trial; and (4) appellant was denied his right to a fair trial because the district court denied him the assistance of stand-by advisory counsel at trial. The doctrine of the law of the case prevents further relitigation of these claims.[7] Appellant cannot avoid the doctrine of the law of the case by a more detailed and precisely focused argument.[8] Therefore, the district court did not err in denying these claims.

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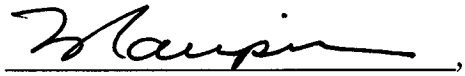
[6]See Bacon v. State, Docket No. 46576 (Order of Affirmance, April 6, 2007).

[7]Hall v. State, 91 Nev. 314, 535 P.2d 797 (1975).

[8]Id. at 316, 535 P.2d at 799; see also Pertgen v. State, 110 Nev. 557, 557-58, 875 P.2d 316, 362 (1994).

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.[9] Accordingly, we

ORDER the judgment of the district court AFFIRMED.[10]



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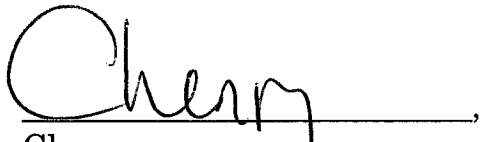
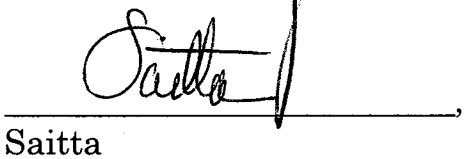
Maupin



_____, J.
Cherry



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

[10]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.

cc: Chief Judge, Eighth Judicial District
Hon. Joseph T. Bonaventure, Senior Judge
Percy Lavae Bacon
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk