

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN ROBERT HALVERSEN A/K/A  
STEVEN ROBERT MYERS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 50821

**FILED**

JAN 22 2009

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of conspiracy to commit robbery and robbery with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge. The district court convicted appellant Steven Robert Halversen a habitual criminal and sentenced him to serve two consecutive prison terms of 84 to 216 months. The district court did not award credit for pretrial confinement.

First, Halversen contends that his equal protection rights were violated when he received a sentence that was disproportionate to the treatment received by his codefendant. The codefendant, who pleaded guilty only to robbery, was sentenced to a prison term of 24 to 60 months. We have stated that there is no legal requirement that codefendants receive identical punishment. Nobles v. Warden, 106 Nev. 67, 68, 787 P.2d 390, 391 (1990). Further, Halversen's equal protection argument is cursory, and he does not assert that he is in a protected class or that the sentence imposed lacked a rational basis. See Gaines v. State, 116 Nev. 359, 371, 998 P.2d 166, 173 (2000) (setting forth the legal framework for

an equal protection analysis). Moreover, we note that Halversen pleaded guilty to more serious charges than his codefendant and he was adjudicated as a habitual criminal. Thus, despite Halversen's assertions, he and his codefendant were not similarly situated. Accordingly, we conclude that this contention lacks merit.

Second, Halversen contends that the district court erred in failing to award him credit for time spent in pretrial confinement. While he acknowledges that he was on probation when he committed the instant offense, he asserts that he was entitled to credit for the time he spent in custody after his term of probation expired until he was sentenced in the instant case.

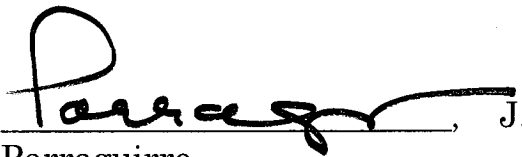
A sentencing determination will not be disturbed on appeal absent an abuse of discretion by the district court. Parrish v. State, 116 Nev. 982, 989, 12 P.3d 953, 957 (2000). NRS 176.055(1) states: "whenever a sentence of imprisonment . . . is imposed, the court may order that credit be allowed against the duration of the sentence . . . for the amount of time which the defendant has actually spent in confinement before conviction . . . ." However, this court has stated that "[t]he plain and unequivocal language of NRS 176.055(2)(b) prohibits a district court from crediting a parolee or probationer for time served on a subsequent offense if such offense was committed while on probation or parole." Gaines, 116 Nev. at 364, 998 P.2d at 169.

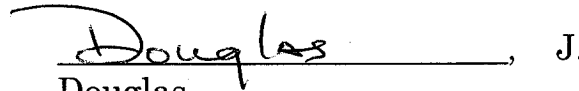
Halversen does not contest the fact that he was on probation at the time he committed the instant offense. In addition, Halversen signed a written plea agreement stating he understood that if the offense to which he was pleading had been committed while he was on probation, he was not eligible for credit for time served toward the instant offense.

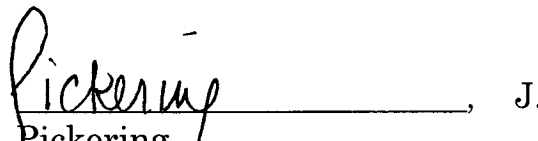
Although Halversen contends that his period of probation expired while he was in custody for the instant offense, he has provided no documentation, either below or on appeal, that supports his assertion that he spent time in pretrial confinement for the instant offense that was outside "the period of the prior sentence." NRS 176.055(2)(b). Therefore, we conclude that the district court did not abuse its discretion at sentencing.

Having considered Halversen's contentions and concluded that they are without merit, we

ORDER the judgment of conviction AFFIRMED.

  
Parraguirre, J.

  
Douglas, J.

  
Pickering, J.

cc: Hon. Donald M. Mosley, District Judge  
Kenneth G. Frizzell, III  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk