

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL ALLEN PARKS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 51137

FILED

FEB 02 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of grand larceny auto. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge. The district court adjudicated appellant Michael Allen Parks as a habitual criminal and sentenced him to serve a prison term of 60-150 months to run concurrently with the sentences imposed in two other district court cases. The district court gave Parks credit for 280 days time served in pretrial confinement.

Parks contends that he was entitled to an additional 84 days credit for time served and the district court's failure to award him the additional credit resulted in the entry of an unknowing and involuntary guilty plea. Parks also contends that he received ineffective assistance of counsel. The extent of Parks' legal argument is as follows:

Counsel is complying with NRAP 3C by filing a timely Fast Track Statement. Counsel is unaware of any statute or caselaw that would support Mr. Park's [sic] argument. Counsel also speculates that appellant may wish to raise an argument as of this time is [sic] Strickland v. Washington.

We conclude that Parks is not entitled to relief.¹

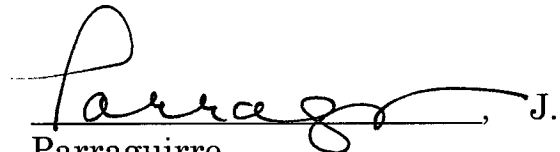
This court has held that, generally, challenges to the validity of a guilty plea must be raised in the district court in the first instance by either filing a motion to withdraw the guilty plea or commencing a post-conviction proceeding pursuant to NRS chapter 34. Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986); see also O'Guinn v. State, 118 Nev. 849, 851-52, 59 P.3d 488, 489-90 (2002). Because the record does not indicate that Parks challenged the validity of his guilty plea in the district court, his claim is not appropriate for review on direct appeal from the judgment of conviction, and therefore, we need not address it. Bryant, 102 Nev. at 272, 721 P.2d at 368.

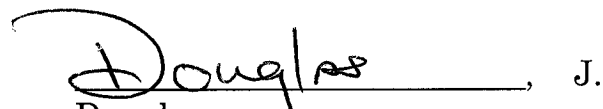
Additionally, this court has repeatedly stated that, generally, claims of ineffective assistance of counsel will not be considered on direct appeal; such claims must be presented to the district court in the first instance in a post-conviction proceeding where factual uncertainties can be resolved in an evidentiary hearing. See Johnson v. State, 117 Nev. 153, 160-61, 17 P.3d 1008, 1013 (2001). We conclude that Parks has failed to provide this court with any reason to depart from this policy in his case. See id.; see also Archanian v. State, 122 Nev. 1019, 1036, 145 P.3d 1008, 1020-21 (2006), cert. denied, ___ U.S. ___, 127 S. Ct. 3005 (2007).

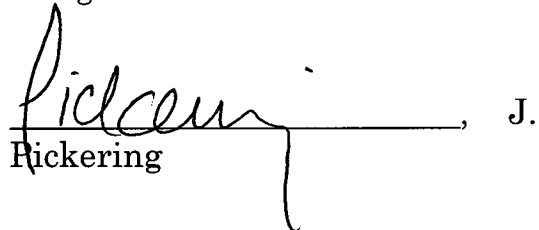
¹Parks' counsel, Eric Goodman, filed a motion to withdraw from representation after he submitted the fast track statement. This court granted Goodman's motion and remanded the matter to the district court for the limited purpose of securing new appellate counsel. On September 5, 2008, newly appointed counsel, Cynthia Dustin, filed in this court a notice certifying that no supplemental fast track statement would be filed because "there are no additional issues of merit to brief."

And finally, Parks has not provided this court with any cogent argument or documentation supporting his claim for additional credit for time served in pretrial confinement, and therefore, we need not address it. Maresca v. State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) (“It is appellant’s responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court.”); see also Thomas v. State, 120 Nev. 37, 43 & n.4, 83 P.3d 818, 822 & n.4 (2004) (“Appellant has the ultimate responsibility to provide this court with ‘portions of the record essential to determination of issues raised in appellant’s appeal.’” (quoting NRAP 30(b)(3))). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


Parraguirre J.


Douglas J.


Rickering J.

cc: Hon. Stewart L. Bell, District Judge
Law Offices of Cynthia Dustin, LLC
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk