

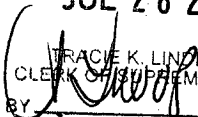
IN THE SUPREME COURT OF THE STATE OF NEVADA

JACOB DANIEL SANCHEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53442

FILED

JUL 28 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of one count of assault with a deadly weapon. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge. The district court sentenced appellant Jacob Daniel Sanchez to serve a prison term of 12 to 48 months with credit for 42 days time served and imposed the sentence to run concurrently with the sentence that Sanchez received in another case—district court case CR08-1801.

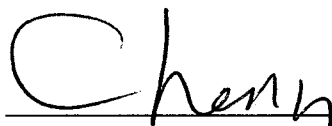
Sanchez contends that the district court abused its discretion at sentencing by not crediting his sentence in this case for time he spent in jail for CR08-1801. Sanchez asserts that he spent a total of 127 days in jail, all 127 days were spent pending sentencing in CR08-1801, and 42 of those days were also spent pending sentencing in this case. Sanchez argues that the 127 days he spent in jail for CR08-1801 should be credited against the sentence he received in this case because the sentences in both judgments of conviction were imposed to run concurrently with one another. In support of his argument, Sanchez cites to Johnson v. State, 120 Nev. 296, 89 P.3d 669 (2004).


We will not disturb a district court's sentencing determination absent an abuse of discretion. See Martinez v. State, 114 Nev. 735, 737-

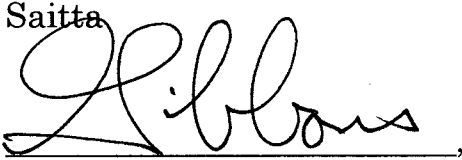
38, 961 P.2d 143, 145 (1998). NRS 176.055(1) allows a district court to credit a sentence “for the amount of time which the defendant has actually spent in confinement before conviction, unless his confinement was pursuant to a judgment of conviction for another offense.” (Emphasis added.) The plain language of this statute limits the credit to time served pending sentencing for the instant conviction. To the extent Sanchez relies on Johnson, his reliance is misplaced. Johnson relates to concurrent sentences within a single judgment of conviction and not to concurrent sentences imposed in separate judgments of conviction. See 120 Nev. at 297-98, 89 P.3d at 669-70.

Having reviewed the record on appeal, we conclude that Sanchez was not entitled to credit for the 127 days he spent in jail pursuant to CR08-1801.¹ Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

¹To the extent that the district court erred by crediting Sanchez’s sentence with 42 days for time served, we note that the error inured to Sanchez’s benefit.

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