

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANIEL JOSEPH BLOOR, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53986

FILED

DEC 11 2009

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a motion for county jail time. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

On August 1, 2007, the district court convicted appellant, pursuant to a guilty plea, of one count of attempted burglary. The district court sentenced appellant to serve a term of 12 to 30 months in the Nevada State Prison. The district court ordered the sentence to be served consecutively to the sentence in CR92-0889 and provided no credit for time served. No direct appeal was filed.

On September 24, 2008, appellant filed a proper person motion for county jail time in the district court. On May 29, 2009, the district court denied appellant's motion. This appeal followed.

In his motion, appellant asserted that he should be provided approximately 80 days of presentence credits in this case.

A claim for presentence credits is a claim challenging the validity of the judgment of conviction and sentence that must be raised on direct appeal or in a post-conviction petition for a writ of habeas corpus in compliance NRS chapter 34. Griffin v. State, 122 Nev. 737, 744, 137 P.3d 1165, 1169 (2006). Thus, appellant's motion should have been treated as a post-conviction petition for a writ of habeas corpus.

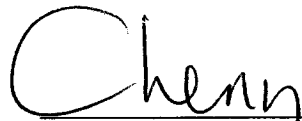
Appellant filed his motion more than one year after entry of the judgment of conviction. Thus, appellant's motion was untimely filed. NRS 34.726(1). Appellant's motion was procedurally barred absent a demonstration of cause for the delay and prejudice. Id. Appellant did not attempt to demonstrate good cause for his failure to file a timely petition, and thus, appellant's motion was procedurally barred and without good cause.


Moreover, as a separate and independent ground to deny relief, appellant's claim lacked merit. NRS 176.055(2)(b) provides that if a defendant commits a subsequent offense while on parole from a Nevada conviction he is not eligible for any credit for time served on the sentence for the subsequent offense. Appellant committed the instant offense while he was on parole from a Nevada conviction. Thus, he was not entitled to any credit in this case. Therefore, we affirm the order of the district court denying the motion.


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. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Brent T. Adams, District Judge
Daniel Joseph Bloor Jr.
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk