

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL G. HARDING A/K/A
MICHAEL GENTRY HARDING,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54354

FILED

FEB 04 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a motion for presentence credits.¹ Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

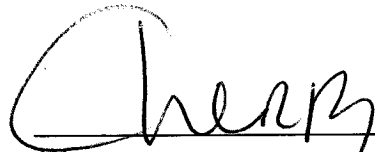
In his motion filed in the district court on June 1, 2009, appellant sought 164 days of presentence credit for time spent incarcerated from March 13, 2008, through August 14, 2008.


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 with NRS chapter 34. See Griffin v. State, 122 Nev. 737, 744, 137 P.3d 1165, 1169-70 (2006). Thus, appellant's motion should have been

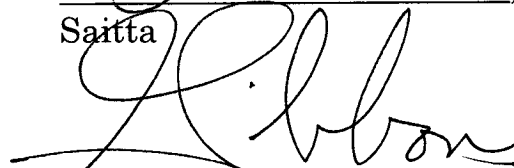
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

treated as a post-conviction petition for a writ of habeas corpus. Regardless of the label, the district court did not err in determining that the motion lacked merit as the record reveals that appellant was incarcerated pursuant to a different case during the time period in question. NRS 176.055(1) (providing for presentence credit for actual confinement, unless the confinement was pursuant to a judgment of conviction for another offense). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Douglas W. Herndon, District Judge
Michael Gentry Harding
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk