

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONALD ROBIN BARREN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54373

FILED

FEB 04 2010

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 credits.¹ Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

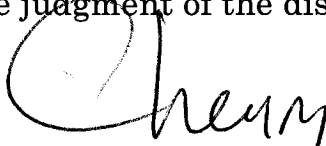
In his motion for credits filed on July 16, 2009, appellant claimed that he should receive an additional 258 days of credit for time served.


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, 1166 (2006). Thus, appellant's motion should have been treated as a post-conviction petition for a writ of habeas corpus. Appellant's motion was procedurally defective as it was untimely filed,

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

filed more than one year from the issuance of the remittitur on December 21, 2007, in the direct appeal, and successive because he had previously sought post-conviction relief in a post-conviction petition for a writ of habeas corpus.² NRS 34.726(1); NRS 34.810(1)(b)(2); NRS 34.810(2). Appellant did not attempt to demonstrate good cause to excuse his procedural defects, and thus, the district court reached the correct result in denying the motion. NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3); see also Kramer v. Kramer, 96 Nev. 759, 616 P.2d 395 (1980) (holding that a correct result will not be reversed simply because it is based on the wrong reason). Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

²Barren v. State, Docket No. 46247 (Order of Affirmance, September 25, 2007) (direct appeal); Barren v. State, Docket No. 52076 (Order of Affirmance, September 3, 2009) (post-conviction appeal).

³We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.

cc: Hon. Valerie Adair, District Judge
Donald Robin Barren
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk