

IN THE SUPREME COURT OF THE STATE OF NEVADA

GEORGE ANGELO ROSENTHAL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54262

GEORGE ANGELO ROSENTHAL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54466

GEORGE ANGELO ROSENTHAL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54490

FILED

FEB 04 2010

ORDER OF AFFIRMANCE

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *T. Chop*
DEPUTY CLERK

Docket No. 54262 is a proper person appeal from an order of the district court denying a motion for sentence modification. Docket No. 54466 is a proper person appeal from an order of the district court denying a motion for award of jail time credit. Docket No. 54490 is a proper person appeal from an order of the district court denying a motion to modify probation revocation. Eighth Judicial District Court, Clark County;

Kenneth C. Cory, Judge. We elect to consolidate these appeals for disposition.¹ NRAP 3(b).

Docket No. 54262

In a motion for sentence modification filed on July 9, 2009, appellant claimed that his guilty plea was invalid because the original charges were redundant and he received no benefit with the dismissal of a redundant charge. Appellant may not challenge the validity of the guilty plea in a motion for sentence modification, and appellant failed to demonstrate a material mistake about his criminal record that worked to his extreme detriment. Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Therefore, we conclude that the district court did not err in denying the motion.

Docket No. 54466

In a motion for award of jail time credits filed on August 12, 2009, appellant sought 757 days of credits for time spent on house arrest and time spent being electronically monitored. A claim for presentence credits is a challenge to the validity of the judgment of conviction and sentence that must be filed on direct appeal or in a post-conviction petition for a writ of habeas corpus. See Griffin v. State, 122 Nev. 737, 744, 137 P.3d 1165, 1166 (2006). Regardless of the label, appellant failed to demonstrate that he was entitled to the credits because house arrest and electronic monitoring are not confinement within the meaning of NRS 176.055. State v. Dist. Ct. (Jackson), 121 Nev. 413, 116 P.3d 834 (2005).

¹These appeals have 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).


Therefore, we conclude that the district court did not err in denying the motion.

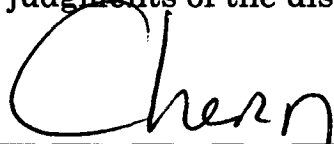
Docket No. 54490

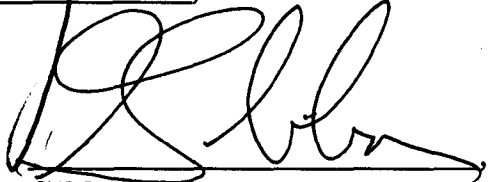
In a motion for modification of probation filed on August 12, 2009, appellant challenged the revocation of his probation. There is no such vehicle as a motion for modification of probation revocation. To the extent that appellant sought modification of his sentence, the claim fell outside the scope of claims permissible in a motion for sentence modification. Edwards, 112 Nev. at 708, 918 P.2d at 324. Relief must be sought on direct appeal or in a post-conviction petition for a writ of habeas corpus.² Therefore, we conclude that the district court did not err in summarily denying the motion.

Having considered the record on appeal and determining that relief is not warranted, we

ORDER the judgments of the district court AFFIRMED.³


_____, J.
Saitta


_____, J.
Cherry


_____, J.
Gibbons

²We express no opinion as to whether appellant can satisfy the procedural and time requirements.

³We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in these matters, 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. Kenneth C. Cory, District Judge
George Angelo Rosenthal
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk