

IN THE SUPREME COURT OF THE STATE OF NEVADA

No. 35004

CAROLYN LEEANN MATTHEWS,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

MAY 10 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of forgery. The district court sentenced appellant to twelve (12) to thirty-four (34) months in the Nevada State Prison and ordered the sentence to be served concurrently with another term of imprisonment to be imposed pursuant to a prior conviction.¹

Appellant contends the district court abused its discretion and violated her constitutional rights to due process and equal protection by denying her request for pre-sentence incarceration credit in the instant case. We disagree. NRS 176.055(2)(b) provides, in pertinent part, that a defendant convicted of an offense while on probation from a prior Nevada conviction is not eligible for pre-sentence incarceration credit on the new offense. Appellant was on probation for a prior conviction at the time she committed the

¹On June 10, 1998, prior to the instant offense, appellant was convicted of attempted forgery and sentenced to twelve (12) to forty-eight (48) months in the Nevada State Prison. The sentence was suspended and appellant was placed on probation for no more than two (2) years. Appellant was serving her probation at the time of the instant offense.

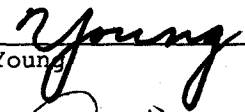
instant offense. Thus, the district court properly denied appellant's request for pre-sentence incarceration credit in the instant case.

Further, at appellant's probation revocation hearing concerning the prior conviction, the district court credited appellant's prison sentence in that case with the one hundred fifty-six (156) days that appellant was confined prior to the revocation of her probation. Therefore, because appellant received all of the incarceration credit to which she was entitled, we conclude that these contentions are without merit.

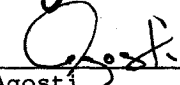
Next, appellant asserts NRS 176.055(2)(b) and NRS 176.035(2) are in conflict and create an ambiguity that should be resolved in appellant's favor. Specifically, appellant asserts NRS 176.035(2) allows the district court to award pre-sentence incarceration credit in the instant case. We disagree. NRS 176.055(2)(b) and NRS 176.035(2) are not in conflict. See *Gaines v. State*, 116 Nev. ___, ___ P.2d ___ (Adv. Op. No. 39, March 13, 2000).

Having concluded that appellant's contentions are without merit, we


ORDER this appeal dismissed.



Young J.



Agosti J.



Leavitt J.

cc: Hon. Ronald D. Parraguirre, District Judge
Attorney General
Clark County District Attorney
Clark County Public Defender
Clark County Clerk