

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRUCE HARRISON BIRCH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56120

FILED

MAY 10 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *S. Young*
DEPUTY CLERK

ORDER OF AFFIRMANCE


This is a proper person appeal from an order of the district court denying appellant's "motion for return of seized property" and "motion for county jail time."¹ Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.


In his motion for return of seized property, filed on July 23, 2009, appellant, pursuant to NRS 179.085, requested the return of property he alleged was taken from him unlawfully. However, appellant made no factual allegations that, if true, would indicate that his property was seized pursuant to an illegal search and seizure. See NRS 179.085; Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). Accordingly, we conclude that the district court did not err in denying this motion.

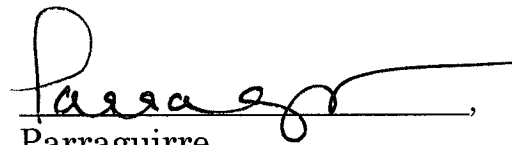
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

With respect to appellant's motion for county jail time, filed on March 3, 2010, appellant alleged that he was entitled to additional credit for time served prior to sentencing. This request for presentence credit was a challenge to appellant's judgment of conviction and sentence, and may only be raised in a post-conviction petition for a writ of habeas corpus. See NRS 34.724(2)(b). Accordingly, we conclude that the district court did not err in denying this motion. Therefore, we

ORDER the judgment of the district court AFFIRMED.²


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

²We 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. Patrick Flanagan, District Judge
Bruce H. Birch
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk