

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER WAYNE ANGELO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56558

FILED

NOV 08 2010

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 a motion for sentence modification.¹ Third Judicial District Court, Lyon County; David A. Huff, Judge.

Having reviewed the record on appeal, we conclude that substantial evidence supports the decision of the district court to deny relief and that the district court did not err as a matter of law. Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994). We therefore affirm the denial of the petition for the reasons stated in the attached district court order. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

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).

cc: Hon. David A. Huff, District Judge
Christopher Wayne Angelo
Attorney General/Carson City
Lyon County District Attorney
Lyon County Clerk

1 Case No. CR5632
2 Department No. I

FILE
2010 JUL -7 PM 3: 25
NIKKI A. BRYAN
LYON COUNTY CLERK
Andrea Anderson DEPUTY

7 IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF LYON

9 THE STATE OF NEVADA,
10
11 Plaintiff,
12 vs.
13 CHRISTOPHER W. ANGELO,
14 Defendant.

ORDER DISMISSING MOTION

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16 This is a proper person motion to modify and/or correct an illegal sentence. Third
17 Judicial District Court, Lyon County: David A. Huff, Judge.

18 Defendant Christopher W. Angelo was originally convicted in this court in 2001,
19 pursuant to a guilty plea, of two (2) counts of lewdness on a child under the age of fourteen
20 (14) years old in violation of former NRS 201.230 for crimes he committed in 1995. Pursuant
21 to several subsequent amended judgments of conviction, the last of which was entered on
22 December 7, 2004, he is currently serving two (2) consecutive terms of ten (10) years in the
23 Nevada State Prison for his crimes. Mr. Angelo's case has been appealed to the Nevada
24 Supreme Court numerous times.

25 On April 19, 2010, Mr. Angelo filed in this court a proper person document entitled
26 "Motion for Modification of Sentence." The State filed a timely opposition. Having reviewed
27 all of the papers and pleadings that have been filed in this matter, and for the reasons below,
28 this court hereby orders Mr. Angelo's motion DISMISSED.

1 In his motion, Mr. Angelo contends that this court incorrectly calculated the amount of
2 presentence credit to which he was entitled and that the amended judgment of conviction that
3 was entered by this court on December 7, 2004, contains an illegal sentence that must be
4 modified and/or corrected. He cites to NRS 176.555 for support.

5 “[A] claim for presentence credit is a claim challenging the validity of the judgment of
6 conviction and sentence.” Griffin v. State, 122 Nev. 737, 744, 137 P.3d 1165, 1169 (2006).
7 Such claims “should be raised on direct appeal or in a post-conviction petition for a writ of
8 habeas corpus filed in compliance with the requirements set forth in NRS chapter 34.” Id.;
9 see also Edwards v. State, 112 Nev. 704, 707, 918 P.2d 321, 324 (1996).

10 Here, Mr. Angelo's motion challenges this court's computation of his presentence
11 credit and the validity of his December 7, 2004, judgment of conviction. Thus, it is outside the
12 limited scope of a motion to modify and/or correct an illegal sentence. Pursuant to Griffin, this
13 claim should be raised in post-conviction petition for a writ of habeas corpus, where Mr.
14 Angelo must overcome any applicable procedural bars to any post-conviction writ petition that
15 he may file. 122 Nev. at 744-45, 137 P.3d at 1169-70. Accordingly, Mr. Angelo's motion is
16 hereby DISMISSED.

17 IT IS SO ORDERED.

18 DATED: This 1th day of July 2010.

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21 
22 DISTRICT COURT JUDGE
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