

IN THE SUPREME COURT OF THE STATE OF NEVADA

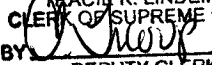
ALVIN MOZCO RODRIGUEZ,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 56767

**FILED**

**FEB 09 2011**

ORDER OF AFFIRMANCE

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

This is a proper person appeal from an order of the district court denying a motion for an amended judgment of conviction to include jail time credits.<sup>1</sup> Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

In his motion filed on July 16, 2010, appellant asserted that he should be provided approximately 159 days of presentence credits in this case. 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. Griffin v. State, 122 Nev. 737, 744, 137 P.3d 1165, 1169 (2006). Thus, appellant should have filed a post-conviction petition for a writ of habeas corpus. The district court properly

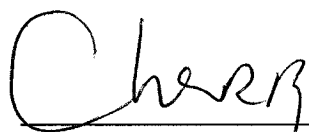
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<sup>1</sup>This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

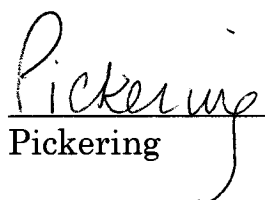
denied the motion as appellant failed to file the correct vehicle to seek these credits.

Moreover, as a separate and independent ground to deny relief, appellant's claim lacked merit. NRS 176.055(2)(b) provides that if a defendant commits a subsequent offense while on probation from a Nevada conviction, he is not eligible for any credit for time served on the sentence for the subsequent offense. Appellant committed the instant offense while he was on probation from a Nevada conviction. Thus, he was not entitled to any credit in this case. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Pickering

cc: Hon. Valerie Adair, District Judge  
Alvin Mozco Rodriguez  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk