

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT LEE WALKER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56902

FILED

JUL 14 2011

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

ORDER OF AFFIRMANCE

This is an appeal from an amended judgment of conviction entered pursuant to a guilty plea of assault with a deadly weapon. Eighth Judicial District Court, Clark County; Jackie Glass, Judge.

Appellant Robert Lee Walker contends that the district court abused its discretion by denying his motion for 120 days of presentence credit for time served. He claims that “[a]lthough he was being held in confinement on two separate cases, he was not in confinement pursuant to a judgment of conviction for another case” and therefore he was entitled to have the time spent in presentence confinement for both cases credited to the sentences in each case. He relies primarily on Johnson v. State, 120 Nev. 296, 89 P.3d 669 (2004), and an unpublished order for authority.

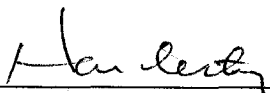
The State responds that the district court should have summarily denied Walker’s motion because his presentence credit claim was not raised in a direct appeal or a post-conviction petition for a writ of habeas corpus in the court below. See Griffin v. State, 122 Nev. 737, 744, 137 P.3d 1165, 1169 (2006). However, the State did not raise this issue in

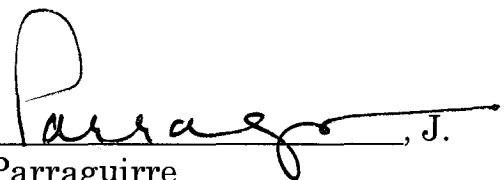
the court below and we decline to consider it here.¹ See Walch v. State, 112 Nev. 25, 30, 909 P.2d 1184, 1187 (1996).

A defendant is only entitled to presentence credit for the amount of time actually spent in confinement. NRS 176.055(1); State v. Dist. Ct. (Jackson), 121 Nev. 413, 416, 116 P.3d 834, 836 (2005). Here, the record reveals that Walker served 120 days in presentence confinement pursuant to charges in two separate cases, C255480 and the instant case. He received 120 days of credit in C255480 and therefore is not entitled to receive this credit in the instant case. Walker's reliance on Johnson and the unpublished order is misplaced. Johnson addresses concurrent sentences imposed in a single judgment of conviction and not concurrent sentences imposed in separate judgments of conviction, see Johnson, 120 Nev. at 297-98, 89 P.3d at 669-70, and unpublished orders are not considered legal precedent, see SCR 123. We conclude that Walker's contention is without merit and we

ORDER the amended judgment of conviction AFFIRMED.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

¹To the extent that the State also argues that this court lacks jurisdiction to consider this appeal because Walker is not an aggrieved party, we disagree. The amended judgment of conviction did not award the full amount of presentence credit that Walker requested and therefore Walker is an aggrieved party. See NRS 177.015(3).

cc: Chief Judge, Eighth Judicial District Court
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk