

IN THE SUPREME COURT OF THE STATE OF NEVADA

JIMMY MIGUEL YASAY,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 35193

FILED

SEP 18 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a proper person appeal from an order of the district court denying appellant's motion to amend retroactive credit for time served.

On August 26, 1996, the district court convicted appellant, pursuant to a guilty plea, of one count of possession of a controlled substance with intent to sell. The district court sentenced appellant to serve a maximum term of thirty-six months with a minimum parole eligibility of twelve months in the Nevada State Prison. The district court suspended the sentence and placed appellant on probation for a period not to exceed five years. Appellant did not file a direct appeal. On May 21, 1999, the district court entered an order revoking appellant's probation, executing the sentence originally imposed and crediting appellant with 155 days credit for time served.

On October 15, 1999, appellant filed a proper person motion to amend retroactive credit for time served. The State opposed the motion. On November 3, 1999, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended that he was entitled to 1054 days of credit for time served. Appellant claimed that he was entitled to credit for the time he spent in Hawaii pursuant to Hawaiian criminal proceedings in an unrelated matter because the indictment for the instant Nevada offense and a detainer were filed while appellant was in custody in Hawaii. We conclude that appellant is not entitled to credit for the 1054 days. NRS 176.055(1) does not allow credit for time served in confinement if the "confinement was pursuant to a judgment of

conviction for another offense." Therefore, we conclude that the district court did not err in denying appellant's motion.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975), cert. denied, 423 U.S. 1077 (1976). Accordingly, we

ORDER this appeal dismissed.

Young J.
Young

Maupin J.
Maupin

Becker J.
Becker

cc: Hon. Donald M. Mosley, District Judge
Attorney General
Clark County District Attorney
Jimmy Miguel Yasay
Clark County Clerk