

IN THE SUPREME COURT OF THE STATE OF NEVADA

TRACI LYNN MORRISON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59620

FILED

MAY 09 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY A. Woodson
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a motion for amended judgment of conviction to include additional presentence credits and a motion for modification of sentence.¹ Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

In her motion filed on December 30, 2010, appellant requested a total of 538 days of presentence credit applied to this case for time served in a separate district court case. Appellant's claim for additional presentence credit is a challenge to the validity of the judgment of

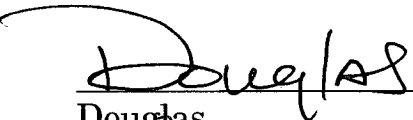
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).


conviction and sentence and such a claim must be raised in a post-conviction petition for a writ of habeas corpus and is subject to the procedural time bar set forth in NRS 34.726(1). Griffin v. State, 122 Nev. 737, 744, 137 P.3d 1165, 1169-70 (2006). Appellant's motion was untimely as it was filed more than two years after the entry of the judgment of conviction on September 2, 2008. NRS 34.726(1). The motion was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. Id. Appellant's claim for additional credits related to time spent incarcerated in another district court case while on probation in this case and was timely raised from the order revoking probation on November 9, 2010, where she was provided with credit for time served after entry of the judgment of conviction in this case. This would explain the delay in raising her claim. See Sullivan v. State, 120 Nev. 537, 541, 96 P.3d 761, 764 (2004). Nonetheless, appellant's motion is procedurally barred; she failed to demonstrate that she would be unduly prejudiced by the denial of her motion as procedurally barred because her claim for additional credits lacked merit. Appellant is not entitled to presentence credit in this case for time spent incarcerated pursuant to another judgment of conviction. NRS 176.055(1). Finally, a motion for sentence modification is the improper vehicle to seek additional presentence credit. Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321,

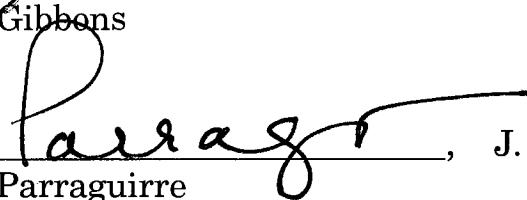
324 (1996). Therefore, we affirm the decision to deny appellant's motion.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Connie J. Steinheimer, District Judge
Traci Lynn Morrison
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

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.