

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONNY PERCEL WATFORD,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 59999

**FILED**

JAN 16 2013

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *T. Malone*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

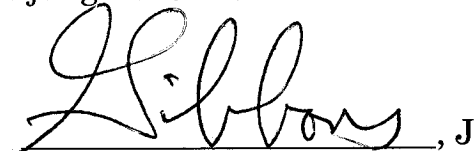
This is an appeal from a judgment of conviction, pursuant to a guilty plea, of possession of a stolen vehicle. Eighth Judicial District Court, Clark County; Carolyn Ellsworth, Judge.

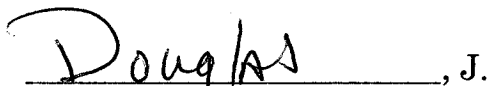
Appellant Donny Percel Watford was originally scheduled to be sentenced on November 9, 2011. Because Watford was not transported for his sentencing hearing, the hearing was continued and set for November 23, 2011. Although an order to transport Watford was obtained by the State on November 22, 2011, Watford again was not transported for his sentencing hearing and the hearing was reset for December 14, 2011. Watford was transported and present for the sentencing hearing on December 14 and was sentenced to a prison term of 12 to 30 months with 0 days of credit for time served.

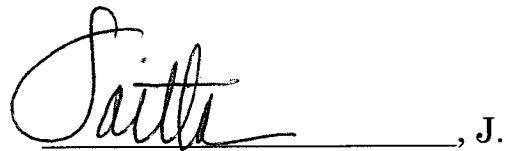
Watford argues that the due process clauses of the United States and Nevada Constitutions require him to be awarded 35 days of credit for time served because the State's failure to produce him for his sentencing hearing on November 9, 2011, deprived him of liberty by extending the time he must remain in custody. We disagree. Watford has failed to demonstrate that the State was solely responsible for or capable

of having him produced for his sentencing hearing. Further, even assuming that the State was solely responsible for having Watford produced for his sentencing hearing, he has not demonstrated that the State's failure to produce him for his first two scheduled sentencing hearings was purposeful or oppressive. See generally, Prince v. State, 118 Nev. 634, 641, 55 P.3d 947, 951 (2002) ("Delay in sentencing that is not purposeful or oppressive on the part of the government does not violate a defendant's due process rights."). And Watford cannot establish that he had a liberty interest in receiving the credit for the time he spent in confinement while awaiting sentencing, because he was on probation at the time he committed the instant offense and was not eligible for any credit on the sentence in this matter for time "spent in confinement which is within the period of the prior sentence." NRS 176.055(2)(b). Cf. Hicks v. Oklahoma, 447 U.S. 343, 346 (1980) (holding that state laws guaranteeing a defendant procedural rights at sentencing may create liberty interests that are protected by the Due Process Clause of the Fourteenth Amendment). Therefore, we conclude Watford has failed to demonstrate a due process violation, and we

ORDER the judgment of conviction AFFIRMED.

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

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Saitta

cc: Hon. Carolyn Ellsworth, District Judge  
Clark County Public Defender  
Cofer & Geller  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk