

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANCIS LEROY MATTINGLY, III,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 60348

FILED

SEP 12 2012

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a motion for sentence modification.¹ Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

In his motion filed on November 9, 2011, appellant claimed that he should have received an additional 480 days of credit for time spent in residential confinement as a condition of probation. Appellant failed to demonstrate that the district court relied on mistaken assumptions regarding his criminal record that worked to his extreme detriment.² See Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324

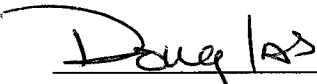
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

²We note that a claim for additional presentence credits is a challenge to the validity of the judgment of 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). Further, we note that presentence credit is not available for time spent in residential confinement as it is not actual confinement.

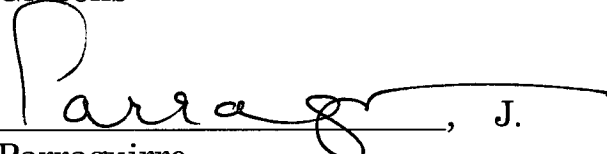
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(1996). We therefore conclude that the district court did not err in denying appellant's motion. Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Jessie Elizabeth Walsh, District Judge
Francis Leroy Mattingly, III
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

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176.055(1); Webster v. State, 109 Nev. 1084, 1085, 864 P.2d 294, 295 (1993).

³We 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.