

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANDRES HERNANDEZ MENDOZA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 61545

FILED

APR 09 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Angelou*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order denying in part a motion for presentence credits.¹ Eighth Judicial District Court, Clark County; Abbi Silver, Judge.

In his motion filed on June 27, 2012, appellant sought an additional 12 days of presentence credit for time served. The 12 days included the period of time between the sentencing hearing and entry of the judgment of conviction. The district court granted the motion in part and amended the judgment of conviction to include an additional 4 days of credit, but denied the request for additional credit.²

Preliminarily, we note that appellant sought presentence credit in the wrong vehicle. A claim for additional presentence credit is a challenge to the validity of the judgment of conviction and sentence that must be raised in a post-conviction petition for a writ of habeas corpus in

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).

²The State has not challenged the 4 additional days awarded.

compliance with the procedural requirements set forth in NRS chapter 34. See Griffin v. State, 122 Nev. 737, 744, 137 P.3d 1165, 1169 (2006). Even assuming that appellant's use of the wrong vehicle could be overlooked, appellant's claim for additional presentence credit lacked merit because the time spent incarcerated after the sentencing hearing but before entry of the judgment of conviction is already credited as flat time against the sentence as the prison begins to calculate a sentence from the sentencing date. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Cherry, J.
Cherry

cc: Hon. Abbi Silver, District Judge
Andres Hernandez Mendoza
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk