

IN THE SUPREME COURT OF THE STATE OF NEVADA

KEVIN DEVON SUTTON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 63263

**FILED**

DEC 13 2013

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

*ORDER OF AFFIRMANCE*

This is a proper person appeal from an order denying a motion for additional presentence credits.<sup>1</sup> Eighth Judicial District Court, Clark County; Jennifer P. Togliatti, Judge.

In his motion filed on March 29, 2013, appellant sought an additional 12 days of presentence credit for time served. 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 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). Appellant's motion was untimely filed, *see* NRS 34.726(1), as it was filed almost 12 years after issuance from the remittitur of his direct appeal on July 9, 2001. *Sutton v. State*, Docket No. 34165 (Order of Affirmance, June 11, 2001). Appellant

---

<sup>1</sup>This 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).

did not attempt to demonstrate cause for the delay, and therefore, the motion was procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Pickering, C.J.  
Pickering

Hardesty, J.  
Hardesty

Cherry, J.  
Cherry

cc: Hon. Jennifer P. Togliatti, District Judge  
Kevin Devon Sutton  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk