

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD DANIEL VAUGHN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 63664

**FILED**

OCT 16 2013

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

*ORDER OF AFFIRMANCE*

This is a proper person appeal from an order of the district court denying a “motion for credit against sentence and amended judgment of conviction.”<sup>1</sup> Tenth Judicial District Court, Churchill County; Robert E. Estes, Senior Judge.

In his motion, appellant claimed that he was entitled to additional presentence credits. A claim for presentence credits must be raised in a post-conviction petition for a writ of habeas corpus filed in compliance with the procedural requirements of NRS Chapter 34 and therefore, it was proper to construe the motion as a post-conviction petition. *See* NRS 34.724(2)(b); *Griffin v. State*, 122 Nev. 737, 744, 137 P.3d 1165, 1169-70 (2006).

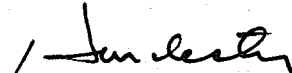
Appellant claimed that the district court erred by failing to give him an additional 39 days of credit for time served between the oral

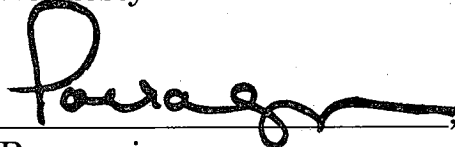
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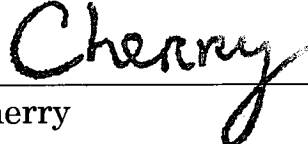
<sup>1</sup>This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. *See Lockett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

pronouncement of the sentence and the entry of the judgment of conviction. We conclude that this claim 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. Therefore, the district court did not err in denying the motion. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Cherry

cc: Hon. Thomas L. Stockard, District Judge  
Hon. Robert E. Estes, Senior Judge  
Richard Daniel Vaughn  
Attorney General/Carson City  
Churchill County District Attorney/Fallon  
Tenth District Court Clerk