

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN BATTISTA GIORDANO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 65425

**FILED**

**OCT 16 2014**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of grand larceny. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Appellant John Battista Giordano contends that the district court erred at sentencing in its granting of credit for time served. Giordano's sentence was ordered to run concurrently with the sentence imposed in district court case no. C272598; therefore, he claims, pursuant to *Johnson v. State*, 120 Nev. 296, 299, 89 P.3d 669, 671 (2004), he is entitled to credit for the period between his arrest and sentencing because "presentence confinement [credit] may not be denied to the defendant by applying it to only one of multiple concurrent sentences." Giordano specifically claims that the district court erred by giving him credit for time served only for the period beginning with his arrest in the instant case until the date of his sentencing in district court case no. C272598. Giordano requested 1,145 days' credit for time served but was awarded only 288.

Giordano's reliance on *Johnson* is misplaced, and we conclude that he is not entitled to additional credit. Unlike Giordano's case, *Johnson* addressed concurrent sentences imposed in a single judgment of

conviction and not concurrent sentences imposed in separate judgments of conviction. *See id.* at 297-98, 89 P.3d at 669-70. Giordano was booked into custody at different times and his judgment of conviction was filed three years after his conviction in district court case no. C272598. Giordano was incarcerated "pursuant to a judgment of conviction for another offense," NRS 176.055(1), when he was sentenced in the instant case.<sup>1</sup> As a result, Giordano is not entitled to credit in this case for the time spent in confinement after his sentencing in district court case no. C272598.<sup>2</sup> Accordingly, we

ORDER the judgment of conviction AFFIRMED.<sup>3</sup>

Pickering, J.  
Pickering

Parraguirre, J.  
Parraguirre

Saitta, J.  
Saitta

<sup>1</sup>Giordano does not contest the fact that he received all of the credit he was entitled to when he was sentenced in district court case no. C272598.

<sup>2</sup>Although the State does not raise the matter, it appears that the district court may have erred to Giordano's benefit at sentencing. It is not clear that Giordano was entitled to *any* credit for time served based on his conviction in district court case no. C272598. *See* NRS 176.055(1).

<sup>3</sup>The fast track statement submitted by Giordano fails to comply with the Nevada Rules of Appellate Procedure because the procedural history and fact section contain inadequate citation to the record. *See* NRAP 3C(e)(1)(C); NRAP 28(e)(1). Counsel for Giordano is cautioned that the failure to comply with the briefing requirements in the future may result in the imposition of sanctions. *See* NRAP 3C(n); *Smith v. Emery*, 109 Nev. 737, 743, 856 P.2d 1386, 1390 (1993).

cc: Hon. Michelle Leavitt, District Judge  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk