

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOE SUGGS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 66008

**FILED**

NOV 13 2014

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

*ORDER OF AFFIRMANCE*

This is a proper person appeal from an order of the district court denying a “motion for good time credits in residential confinement.”<sup>1</sup> Eighth Judicial District Court, Clark County; James M. Bixler, Judge.

In his May 5, 2014, motion, appellant claimed that he was entitled to additional presentence credits for time he spent under house arrest prior to entry of his guilty plea. 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 filed his motion more than eight years after entry of the judgment of conviction on March 9, 2006. Thus, appellant’s motion

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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 *Luckett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

was untimely filed. See NRS 34.726(1). Moreover, appellant's motion constituted an abuse of the writ as he raised claims new and different from those raised in his previous petition.<sup>2</sup> See NRS 34.810(2). Appellant's motion was procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(3). Appellant did not attempt to provide cause for the delay. Moreover, appellant failed to demonstrate actual prejudice because "house arrest does not constitute time 'actually spent in confinement' for which the duration of a sentence may be credited." *State v. Second Judicial Dist. Court (Jackson)*, 121 Nev. 413, 418-19, 116 P.3d 834, 837 (2005). Therefore, the district court did not err in denying the motion. Accordingly, we

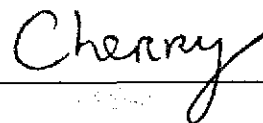
ORDER the judgment of the district court AFFIRMED.<sup>3</sup>

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

Hardesty

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

Douglas

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

Cherry

<sup>2</sup>*Suggs v. State*, Docket No. 49775 (Order of Affirmance, June 9, 2008).

<sup>3</sup>We 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.

cc: Hon. James M. Bixler, District Judge  
Joe Suggs  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk