

IN THE SUPREME COURT OF THE STATE OF NEVADA

RUDOLPH WILLIAM RIVERA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 66188

FILED

DEC 11 2014

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

ORDER OF AFFIRMANCE

This is a proper person appeal from the denial of a motion for credit against sentence and amended judgment of conviction.¹ Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

In his motion, filed on June 13, 2012, appellant claimed that he was entitled to additional presentence credit for time served. A claim for presentence credits should be raised on direct appeal or in a post-conviction petition for a writ of habeas corpus. *Griffin v. State*, 122 Nev. 737, 744, 137 P.3d 1165, 1169 (2006). Thus, appellant's motion should have been construed as a post-conviction petition for a writ of habeas corpus. NRS 34.724(2)(c).


Appellant's motion was successive because he had previously filed a virtually identical motion on May 5, 2014, which was denied on the merits.² NRS 34.810(2). Appellant's motion was therefore procedurally

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).

²Appellant did not appeal the denial of that motion.

barred absent a demonstration of good cause and actual prejudice. NRS 34.810(3). Appellant did not attempt to demonstrate good cause to excuse the procedural bar, nor could he have demonstrated actual prejudice because he received all of the presentence credit to which he was entitled. We therefore conclude that the district court did not err in denying the motion, and we

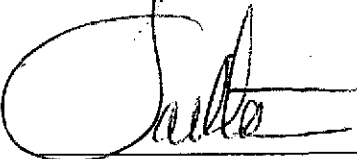
ORDER the judgment of the district court AFFIRMED.



Gibbons C.J.



Pickering J.



Saitta J.

cc: Hon. Jessie Elizabeth Walsh, District Judge
Rudolph William Rivera
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk