

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHRISTOPHER YOHO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 68937

FILED

APR 20 2016

ORDER OF AFFIRMANCE

MICHAEL K. LINDEMAN
CLERK OF THE SUPREME COURT
[Signature]
CLERK

This is an appeal from an order of the district court denying a postconviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; William D. Kephart, Judge.

In his petition filed on July 16, 2015, appellant Christopher Yoho claimed he was denied presentence credits in violation of the equal protection clause and also claimed NRS 176.055(2)(b) was ambiguous. Yoho fails to demonstrate he was erroneously denied presentence credits or that NRS 176.055(2)(b) is ambiguous.

Yoho was serving a prison sentence for a conviction of failure to stop on signal of officer. He was placed into a residential treatment facility. In 2013, he escaped from that facility. He was arrested in 2013, and convicted in 2015, in the instant case, of that escape. The district court gave him zero credit for time served. Yoho was paroled from his previous prison sentence for failure to stop on February 25, 2014, and was

¹This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).

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held in the Clark County Detention Center awaiting trial on the escape until his judgment of conviction was entered on June 23, 2015. Yoho claims he should have received presentence credits toward his escape for the period of time he was incarcerated at the Clark County Detention Center. Further, he claims that if a similarly situated inmate was wealthy, he could have bailed out of the Clark County Detention Center, and therefore, the fact he did not receive presentence credits violated equal protection. He also claims NRS 176.055(2)(b) is ambiguous because he was paroled on his prior sentence for failure to stop and he was told by someone at parole and probation he was not receiving credit toward that sentence for the time spent in Clark County.²

Yoho's claims are without merit. NRS 176.055(2)(b) states


A defendant who is convicted of a subsequent offense which was committed while the defendant was . . . (b) Imprisoned in a county jail or state prison or on probation or parole from a Nevada conviction is not eligible for any credit on the sentence for the subsequent offense for the time the defendant has spent in confinement which is within the period of the prior sentence, regardless of whether any probation or parole has been formally revoked.


The language of the statute is not ambiguous. Yoho was imprisoned at the time he committed the escape. Further, during the time he spent in the Clark County Detention Center, he was on parole and should have been

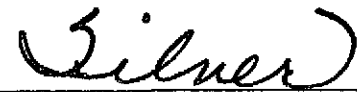
²If Yoho did not receive credit toward his parole for his previous failure to stop case during his time spent in the Clark County Detention Center, he can file, in his previous case, a postconviction petition challenging the computation of time served. See NRS 34.724(1); NRS 34.738(1). We express no opinion as to whether petitioner could meet the procedural requirements of NRS chapter 34.

earning credits towards that parole. Therefore, Yoho was not entitled to presentence credits in this case. Yoho's equal protection argument also fails because he and the wealthy man would both be earning credits toward their parole. Therefore, the district court did not err in denying these claims, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. William D. Kephart, District Judge
Christopher Yoho
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk