

IN THE SUPREME COURT OF THE STATE OF NEVADA

RONALD BROWN,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 37007

FILED

JAN 02 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's motion for an amended judgment of conviction to include jail time credits.

On December 16, 1999, the district court convicted appellant, pursuant to an Alford¹ plea, of attempted burglary. The district court sentenced appellant to serve a minimum term of twelve (12) months and a maximum term of thirty six (36) months in the Nevada State Prison with 49 days credit for time served.

On June 14, 2000, appellant filed a proper person motion for an amended judgment of conviction to include jail time credits in the district court. In opposition to the motion, the State argued that appellant was not entitled to any additional credit for time served because appellant was in custody pursuant to a judgment of conviction in a separate district court case and had received credit for time served in that case. The State failed to provide any documentation supporting its argument. Appellant did not challenge the contentions raised in the State's opposition. On

¹North Carolina v. Alford, 400 U.S. 25 (1970).

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October 23, 2000, the district court denied appellant's motion. This appeal followed.²

In his motion, appellant contended that he was entitled to an additional sixty-four (64) days of jail time credit for time spent in custody from October 8, 1999, to December 10, 1999.

NRS 34.724(2)(c) provides that a post-conviction petition for a writ of habeas corpus is "the only remedy available to an incarcerated person to challenge the computation of time that he has served pursuant to a judgment of conviction." Appellant's request for jail time credits is a challenge to the computation of time he has served. Therefore, appellant should properly have filed a petition for a writ of habeas corpus to challenge the computation of his jail time credits.³

Our review of the record indicates that appellant has failed to provide sufficient facts to warrant the relief requested.⁴ For the time period at issue, it appears that appellant served time in jail pursuant to a judgment of conviction for another offense. Appellant is not entitled to jail time credit for the amount of time spent in confinement pursuant to a

²On August 28, 2000, the district court entered an order denying appellant's motion for amended judgment to include jail time credits. On September 15, 2000, appellant filed a "motion for rehearing," arguing that he should have been represented by counsel in the proceedings concerning his motion for amended judgment to include jail time credits. The State opposed the "motion for rehearing." On September 28, 2000, the district court entered an order denying the "motion for rehearing." On October 23, 2000, the district court entered a final order denying both appellant's motion for amended judgment to include jail time credits and appellant's "motion for rehearing." Appellant's appeal from this final order is timely.

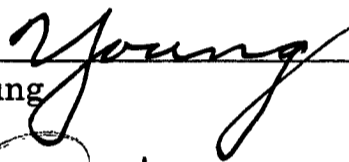
³See Pangallo v. State, 112 Nev. 1533, 1535, 930 P.2d 100, 102 (1996).


⁴See Pangallo, 112 Nev. at 1536, 930 P.2d at 102-03 (stating that an appeal will be dismissed if appellant has failed to meet the relevant statutory requirements, including the requirement of NRS 34.370(3), to provide a factual basis for the relief requested).


judgment of conviction for another offense.⁵ Based upon the record, we cannot determine whether appellant is entitled to additional credit for time spent in jail because appellant failed to allege specific facts supporting his motion and the State failed to provide documentation refuting his claim. Therefore, we affirm the district court's order without prejudice to appellant's right to file a habeas petition on this matter, properly supported by specific factual allegations.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.⁶ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Young


_____, J.
Agosti


_____, J.
Leavitt

cc: Hon. John S. McGroarty, District Judge
Attorney General/Carson City
Clark County District Attorney
Ronald Brown
Clark County Clerk

⁵See NRS 176.055.

⁶See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).