

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KEITH D. SYLVIA,  
Appellant,  
vs.  
RENEE BAKER, WARDEN; AND THE  
STATE OF NEVADA,  
Respondents.

No. 71186

**FILED**

JUN 14 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER AFFIRMING AND DISMISSING*

Keith D. Sylvia appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus and an order granting a motion to refer petitioner to the department of corrections for forfeiture of statutory credits.<sup>1</sup> Seventh Judicial District Court, White Pine County; Gary Fairman, Judge.

In his June 8, 2016 petition, Sylvia asserted the Nevada Department of Corrections (NDOC) erred by failing to properly calculate his sentences stemming from his 2002 conviction for robbery with the use of a deadly weapon. Specifically, Sylvia claimed his primary sentence and his deadly-weapon-enhancement sentence should have been treated as one for purposes of earning and applying statutory credits. Sylvia's claim lacked merit.

When Sylvia was convicted, the penalty for the primary offense and the penalty for the deadly weapon enhancement were separate

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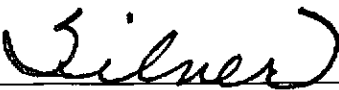
<sup>1</sup>This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).


and distinct sentences, and the NDOC was required to treat the consecutive terms as separate sentences for all purposes. See *Nevada Dep't of Prisons v. Bowen*, 103 Nev. 477, 481, 745 P.2d 697, 699 (1987). Accordingly, the NDOC properly treated Sylvia's primary and enhancement terms as separate sentences for all purposes, including the earning and application of credits. We further note Sylvia finished serving his term for his primary sentence in 2009, and thus, the NDOC can no longer aggregate the terms for his primary offense and his deadly weapon enhancement. See NRS 213.1212(3). Therefore, the district court did not err in denying this claim.

Next, Sylvia argues the district court erred in granting the respondents' motion to refer him to the NDOC for forfeiture of statutory credits. However, we lack jurisdiction to consider this portion of Sylvia's appeal because no statute or court rule permits an appeal from such an order. See *Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990). Accordingly, we dismiss this portion of Sylvia's appeal.

Having concluded Sylvia is not entitled to relief, we

ORDER the judgment of the district court AFFIRMED regarding the postconviction petition for a writ of habeas corpus and DISMISS the appeal from the order granting motion to refer petitioner to department of corrections for forfeiture of statutory credits.

  
\_\_\_\_\_, C.J.  
Silver

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

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

cc: Hon. Gary Fairman, District Judge  
Keith D. Sylvia  
Attorney General/Ely  
White Pine County Clerk