

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TYERRE LANELL WHITE-HUGHLEY,
A/K/A TYERRE LANELL WHITE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 80549-COA

FILED

DEC 08 2020

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

ORDER OF AFFIRMANCE

Tyerre Lanell White-Hughley appeals from a judgment of conviction, entered pursuant to a guilty plea, of invasion of the home. Eighth Judicial District Court, Clark County; David M. Jones, Judge.

White-Hughley contends the district court abused its discretion in awarding him zero days' presentence credit. White-Hughley was arrested on the same day for outstanding warrants issued in two separate cases: district court case numbers C-19-344122-1 ("abuse case") and C-19-344519-1 (instant case). He was sentenced in the abuse case on December 9, 2019, and he was sentenced in the instant case on January 7, 2020. We review a district court's sentencing decision for an abuse of discretion. *Chavez v. State*, 125 Nev. 328, 348, 213 P.3d 476, 490 (2009).

First, White-Hughley argues he is entitled to 70 days' presentence credit in the instant case for the period between his arrest and his sentencing in the abuse case, because the sentence in the instant case was imposed to run concurrently with the sentence in the abuse case. A district court must credit a sentence "for the amount of time which the defendant has actually spent in confinement before conviction, *unless [his] confinement was pursuant to a judgment of conviction for another offense.*"


NRS 176.055(1) (emphasis added); see *Poasa v. State*, 135 Nev. 426, 429, 453 P.3d 387, 390 (2019) (reaffirming that sentencing courts must grant presentence credit for time served). The district court had applied the 70 days' presentence credit to the sentence in the abuse case. Because White-Hughley served those 70 days pursuant to the judgment of conviction for another offense, we conclude the district court did not abuse its discretion by precluding the 70 days' presentence credit in the instant case.

Second, White-Hughley contends due process requires that he be credited for all of the time he spent in presentence confinement—both the 70 days between his arrest date and sentencing in the abuse case and the 29 days between his sentencing hearings in the two cases. “Due process protections apply only when government action deprives a person of liberty or property.” *State, ex rel. Bd. of Parole Comm’rs v. Morrow*, 127 Nev. 265, 271, 255 P.3d 224, 227 (2011) (internal quotation marks omitted). As discussed above, NRS 176.055(1) precludes application of the 70 days' presentence credit to White-Hughley's instant case. And because he was serving a sentence pursuant to a judgment of conviction in another case during the subsequent 29 days, the statute similarly precludes application of presentence credit for those days. Because White-Hughley had already received all the presentence credit he was entitled to under NRS 176.055(1), he fails to demonstrate a protectable liberty interest, and therefore, due process protections do not apply. *Cf. Hicks v. Oklahoma*, 447 U.S. 343, 346 (1980) (holding that state laws guaranteeing a defendant procedural rights at sentencing may create liberty interests that are protected by the Due Process Clause of the Fourteenth Amendment).

For the foregoing reasons, we conclude White-Hughley fails to demonstrate the district court abused its discretion by not awarding him any presentence credit for time served. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. David M. Jones, District Judge
Nobles & Yanez Law Firm
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk