

IN THE SUPREME COURT OF THE STATE OF NEVADA

BOBBY JOE DODGE A/K/A BOBBY
BRANDON DODGE,

No. 37573

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

JUL 31 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of attempted burglary. The district court sentenced appellant to serve 12 to 32 months in prison, to be served consecutively to a sentence in another case.

Appellant contends that the district court erred in failing to give appellant credit for presentence incarceration. Appellant, however, was on probation for another offense at the time that he committed the instant offense. NRS 176.055(2) provides that a "defendant who is convicted of a subsequent offense which was committed while he was" on probation "is not eligible for any credit on the sentence for the subsequent offense for the time he has spent in confinement which is within the period of the prior sentence, regardless of whether any probation . . . has been formally revoked." Because appellant was on probation at the time he committed the instant offense, he is not entitled to

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credit on the sentence for the instant offense. We therefore conclude that appellant's contention lacks merit.

Accordingly, we

ORDER the judgment of conviction AFFIRMED.¹

Young J.
Young

Leavitt J.
Leavitt

Becker J.
Becker

cc: Hon. Donald M. Mosley, District Judge
Attorney General
Clark County District Attorney
Clark County Public Defender
Clark County Clerk

¹We note that the fast track statement technically does not comply with this court's decision in Ramos v. State, 113 Nev. 1081, 944 P.2d 856 (1997), which provides that appellate counsel must argue for their clients without conceding that an appeal is without merit of frivolous. Nonetheless, we have reviewed the record and conclude that there are no meritorious direct appeal issues.