

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SHAUN MICHAEL SMITH,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 84642-COA

FILED

APR 12 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER OF AFFIRMANCE

Shaun Michael Smith appeals from an amended judgment of conviction entered pursuant to a guilty plea of attempted lewdness with a child under the age of 14 years. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

Smith argues the district court erred by refusing to award him additional presentence credits for time he spent in custody in Colorado. Following the commission of this offense, Smith was convicted and incarcerated for an offense that occurred in Colorado. Smith asserts that the delay in his extradition from Colorado was attributable to the State and thus he is entitled to credit against his Nevada sentence for the time spent in Colorado custody.

Defendants are entitled to presentence credit for time served “unless the defendant’s confinement was pursuant to a judgment of conviction for another offense.” NRS 176.055(1). Moreover, “a defendant is entitled to credit for time served in presentence confinement in another jurisdiction when that confinement was solely pursuant to the charges for which he was ultimately convicted.” *Nieto v. State*, 119 Nev. 229, 232, 70 P.3d 747, 748 (2003). Smith was confined in Colorado pursuant to a

Colorado conviction and was not confined solely pursuant to this offense. Therefore, we conclude the district court did not err by failing to award Smith additional presentence credits for the time he spent in custody pursuant to the Colorado conviction.

Smith also argues that he is entitled to additional presentence credits based on a violation of his speedy-trial rights. Constitutional errors that arise before entry of a guilty plea are ordinarily waived by entry of the guilty plea, *see Webb v. State*, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975), and Smith does not argue that he preserved this alleged error as part of his guilty plea, *see* NRS 174.035(3). Therefore, we conclude Smith's claim is waived. Accordingly, we

ORDER the amended judgment of conviction AFFIRMED.

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

  
\_\_\_\_\_, J.  
Bulla

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Tierra Danielle Jones, District Judge  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk