

IN THE SUPREME COURT OF THE STATE OF NEVADA

HAROLD HAYWARD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 38477

FILED

SEP 27 2002

ORDER OF AFFIRMANCE

JANETTE W. BLOOM
CLERK OF SUPREME COURT
BY: *J. Richard*
C. F. F.

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

On January 25, 2001, the district court convicted appellant, pursuant to a guilty plea, of failure to appear after admission to bail. The district court sentenced appellant to serve a term of 19 to 48 months in the Nevada State Prison. His sentence was ordered to be served concurrently to district court case no. CR98-2908. Appellant did not file a direct appeal.

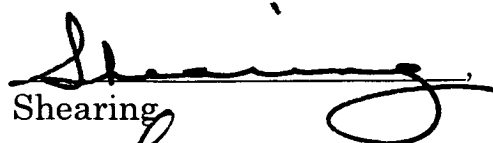
On August 1, 2001, appellant filed a proper person post-conviction motion for jail time credits in the district court. The State opposed the petition. On August 22, 2001, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended that he was entitled to 163 days of jail time credit for time he spent incarcerated from August 15, 2001 to January 25, 2001. In opposition to the motion, the State contended that pursuant to NRS 176.055 appellant was not entitled to this time because he was in custody pursuant to district court case no. CR98-2908, and that he received the credit he is now seeking in that case. We conclude that the district court did not err in denying appellant's motion. The record on appeal reveals that appellant was in custody on district court case no. CR98-2908 when he was arrested for the offense that is the

subject of this appeal.¹ The record on appeal also reveals that appellant received the credit he is seeking in district court case no. CR98-2908. Thus, appellant is not entitled to relief.²

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.³ Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 J.
Shearing

 J.
Leavitt

 J.
Becker

cc: Hon. Janet J. Berry, District Judge
Attorney General/Carson City
Washoe County District Attorney
Harold Hayward
Washoe District Court Clerk

¹Appellant was not physically in custody but admitted to bail when he was arrested for the current offense of failure to appear after admission to bail. See Woolsey v. State, 111 Nev. 1440, 1443-44, 906 P.2d 723, 726 (1995) (admission to bail does not end custody, but only changes its conditions).

²See NRS 176.055.

³See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).