

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEMETRIUS THOMAS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 38483

FILED

APR 30 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus.

On January 9, 2001, the district court convicted appellant, pursuant to a guilty plea, of one count of coercion. The district court sentenced appellant to serve a maximum term of thirty-six months with a minimum parole eligibility of twelve months in the Nevada State Prison, to be served consecutively with appellant's sentence in a federal matter, and credited appellant one hundred forty-three days for time served. Appellant did not file a direct appeal.

On May 9, 2001, appellant filed a motion in the district court for an amended judgment of conviction to include jail time credits, contending that he was entitled to a total of three hundred thirty-one days credit for time served. The State opposed the motion. On May 24, 2001, the district court denied appellant's motion. Appellant did not appeal this decision.

On June 1, 2001, appellant filed a second motion in the district court for an amended judgment of conviction to include jail time credits, contending that he was entitled to an additional one hundred eighty-nine days credit for time served. The State opposed the motion on

the grounds that it failed to comply with the requirements of NRS 34.735 and this court's ruling in Pangallo v. State, 112 Nev. 1533, 930 P.2d 100 (1996). On June 28, 2001, the district court denied appellant's motion. Appellant did not appeal this decision.

On June 27, 2001, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. On September 14, 2001, the district court denied appellant's petition. This appeal followed.

In his petition, appellant claimed that he was entitled to an additional one hundred eighty-nine days credit for time served. We conclude that the district court did not err in denying the petition. Appellant is not entitled to credit for time spent in confinement that is within the period of a sentence imposed in another case.¹ Following his release on bail in the instant case, appellant was arrested and charged with assault with the use of a deadly weapon in district court case number C167852.² Apparently, appellant was again released on bail. It is not evident from the record currently before this court how much of appellant's pre-sentencing incarceration was attributable to this matter, and how much was attributable to his second arrest and the charges in district court case number C167852. However, appellant has alleged no facts other than that he spent a total of three hundred thirty-one days in

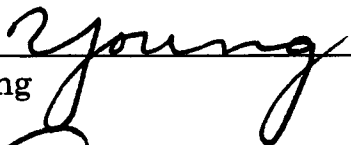
¹See NRS 176.055(1).


²As part of the guilty plea agreement, appellant agreed that he would plead guilty to the assault with the use of a deadly weapon in the second case.

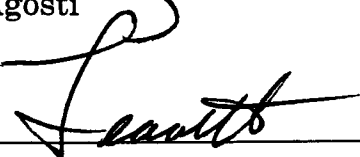
jail and was credited with one hundred forty-three days. Thus, appellant failed to demonstrate that he is entitled to the relief requested.³

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.⁴ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Young


_____, J.
Agosti


_____, J.
Leavitt

cc: Hon. John S. McGroarty, District Judge
Attorney General/Carson City
Clark County District Attorney
Demetrius Thomas
Clark County Clerk

³See NRS 34.370(3); Pangallo v. State, 112 Nev. 1533, 1536, 930 P.2d 100, 102 (1996).

⁴See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).