IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOSEPH RANDAL BERUMEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 91430-COA

FILED

JUN 03 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

Joseph Randal Berumen appeals from a judgment of conviction, entered pursuant to a guilty plea, of unlawful possession of a schedule I or II controlled substance, low level, in district court case no. CR-2401016, and trafficking in fentanyl, low level, in district court case no. CR-2504036. Seventh Judicial District Court, White Pine County; Dylan V. Frehner, Judge.

Berumen argues the district court erred by denying his motion to suppress evidence. The State contends Berumen waived this argument in the guilty plea agreement. "[A] guilty plea represents a break in the chain of events which has preceded it in the criminal process." *Tollett v. Henderson*, 411 U.S. 258, 267 (1973). Thus, by entering a guilty plea, a defendant generally waives the right to challenge on appeal events that occurred prior to the entry of the plea. *See id.*; *see also Webb v. State*, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975) (applying *Tollett*). Moreover, "[a] knowing and voluntary waiver of the right to appeal made pursuant to a plea bargain is valid and enforceable." *Cruzado v. State*, 110 Nev. 745, 747,

879 P.2d 1195, 1195 (1994), *overruled on other grounds by Lee v. State*, 115 Nev. 207, 210, 985 P.2d 164, 166 (1999); *but see Burns v. State*, 137 Nev. 494, 499-500, 495 P.3d 1091, 1099-100 (2021) (holding a prospective waiver of the right to appellate review is not enforceable "if denying a right of appeal would work a miscarriage of justice" (quotation marks omitted)).

Berumen's claim relates to an error that occurred prior to entry of the guilty plea. In addition, the language of Berumen's plea agreement included an express waiver of his right to appeal his conviction, "including any decisions on pre-trial motions," and he did not otherwise reserve the right to appeal the denial of his suppression motion in the plea agreement. *See* NRS 174.035(3). Thus, Berumen waived this claim both by the entry of his guilty plea and in the plea agreement, and we decline to consider this claim on appeal.

Berumen also argues the district court abused its discretion in failing to award him an additional 186 days' presentence credit. The district court held a single sentencing hearing in which it sentenced Berumen in CR-2401016 and CR-2504036. The district court sentenced Berumen to 12 to 30 months in prison in the former case and a consecutive 24 to 60 months in prison in the latter case, for an aggregate sentence of 36 to 90 months in prison. The district court then awarded Berumen 212 days' presentence credit toward the aggregate sentence: 26 days that were served on CR-2401016, and 186 days that were served on both CR-2401016 and CR-2504036 concurrently.

> Except in circumstances not present here,[1]
>
> [W]henever a sentence of imprisonment . . . is imposed, the court may order that credit be allowed against the duration of the sentence, including any minimum term or minimum aggregate term, as applicable, thereof prescribed by law, *for the amount of time which the defendant has actually spent in confinement before conviction* . . . .

NRS 176.055(1) (emphasis added); *see also Poasa v. State*, 135 Nev. 426, 426, 453 P.3d 387, 388 (2019) ("Nevada law is well-settled that when a district court imposes a sentence in a criminal case, it must give a defendant credit for any time the defendant has actually spent in presentence confinement absent an express statutory provision making the defendant ineligible for that credit."). The purpose of NRS 176.055(1) "is to ensure that all time served is credited towards a defendant's ultimate sentence." *Kuykendall v. State*, 112 Nev. 1285, 1287, 926 P.2d 781, 783 (1996).

Berumen does not contend that he actually spent 186 more days in presentence confinement than what he received credit for on his ultimate sentence. Rather, the record indicates the district court awarded Berumen credit for the entire time he actually spent in presentence confinement. Because the sentences were imposed consecutively, we conclude the district court properly declined to award Berumen an additional 186 days'

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[1]The parties do not discuss, and thus we do not consider, whether NRS 176.055(2)(a) precluded Berumen from receiving presentence credit in CR-2504036. *See Senjab v. Alhulaibi*, 137 Nev. 632, 633-34, 497 P.3d 618, 619 (2021) ("We will not supply an argument on a party's behalf but review only the issues the parties present.").

presentence credit. *Cf. White-Hughley v. State*, 137 Nev. 472, 477, 495 P.3d 82, 86 (2021) (holding that, "where a defendant simultaneously serves time in presentence confinement for multiple cases and the resulting sentences are imposed *concurrently*, credit for time served must be applied to each case" (emphasis added)). Accordingly, we

ORDER the judgment of conviction AFFIRMED.

_____, C.J.
Bulla

_____, J.
Gibbons

_____, J.
Westbrook

cc: Dylan V. Frehner, District Judge
Nevada State Public Defender's Office
Attorney General/Carson City
White Pine County District Attorney
White Pine County Clerk