

IN THE SUPREME COURT OF THE STATE OF NEVADA

SHERMAN DWAYNE NASH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 38951

FILED

MAR 14 2002

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one felony count of driving and/or being in actual physical control of a vehicle while under the influence of a controlled substance and/or with a prohibited substance in blood or urine in violation of NRS 484.3795. The district court sentenced appellant Sherman Dwayne Nash to serve a prison term of 24-60 months, and ordered him to pay a fine of \$2,000.00. Nash was given credit for 373 days time served.

Nash's sole contention on appeal is that he is entitled to an additional 115 days credit for time served in the instant case based on his incarceration from July 9-October 30, 2001. We disagree.

Nash committed the offense to which he ultimately pleaded guilty on June 23, 2000; however, he was not taken into custody until July 9, 2001, and was not charged by way of a criminal information until November 5, 2001. Pursuant to negotiations, and as reflected in the formal written and signed guilty plea agreement filed in open court on November 7, 2001, Nash was to receive "one (1) year credit for time served as of October 30, 2001" along with the recommended sentence. The offer

by the State for the credit for time served far exceeded the actual amount of time Nash was incarcerated prior to sentencing and to which he was entitled pursuant to NRS 176.055.¹ Also, a review of the transcript of the preliminary hearing, conducted on October 30, 2001, reveals that Nash clearly understood the terms of his negotiated plea:

MS. DICKSON (for the defendant): We have agreed to a sentence of two to five years concurrent to another case that Mr. Nash has, and we've also agreed that as of today he has credit for time served of one year and then credit will continue to accrue after today's date.

MR. NELSON (for the State): That is a correct statement of the negotiations.

THE COURT: Do you understand, sir?

THE DEFENDANT: Yes, ma'am.

A hearing was held in the district court on November 14, 2001, on Nash's request for additional credit for time served based on his incarceration in the instant case from July 9-October 30, 2001. The district court denied the request. We conclude that Nash not only received all of the credit for time served that he was entitled to, but that pursuant to the terms of the negotiated plea he actually received more than three times the amount of credit to which he was entitled. Further, Nash has

¹NRS 176.055(1) provides in part: "whenever a sentence of imprisonment . . . is imposed, the court may order that credit be allowed against the duration of the sentence, . . . for the amount of time which the defendant has actually spent in confinement."

failed to demonstrate that he should receive any additional credit.
Accordingly, we

ORDER the judgment of conviction AFFIRMED.

Young, J.
Young

Agosti, J.
Agosti

Leavitt, J.
Leavitt

cc: Hon. Kathy A. Hardcastle, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Clark County Clerk