

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES B. HARRIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39202

FILED

OCT 18 2002

ORDER OF AFFIRMANCE

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

This is a proper person appeal from an order of the district court denying appellant's post-conviction motion to amend his judgment of conviction.¹

On August 10, 2001, the district court convicted appellant, pursuant to a guilty plea, of possession of a controlled substance with intent to sell. The district court sentenced appellant to serve a term of twelve to forty-eight months in the Nevada State Prison, to be served concurrently with a sentence appellant was already serving. The district court also ordered that appellant was not entitled to any credit for time served.

On January 16, 2002, appellant filed a proper person post-conviction motion in the district court to amend the judgment of conviction

¹We elect to construe appellant's motion as a petition for habeas corpus. See Pangallo v. State, 112 Nev. 1533, 1536, 930 P.2d 100, 102 (1996) (abrogated on other grounds by Hart v. State, 116 Nev. 558, 1 P.3d 969 (2000).

to include credit for time served in relation to his participation in a drug treatment program. The State opposed the motion and appellant filed a reply to the State's opposition. On February 11, 2002, the district court denied appellant's motion. This appeal followed.

In his motion, appellant claimed that he was entitled to approximately one hundred ninety-four days additional 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.² Appellant was on probation for district court case number C152412 when the instant offense occurred. In addition, appellant signed a written plea agreement stating that he understood that if the offense to which he was pleading had been committed while appellant was on probation, that he was not eligible for credit for time served toward the instant offense. Therefore, appellant failed to demonstrate that he is entitled to the relief requested.³

²See NRS 176.055(2)(b).

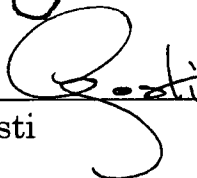
³See Pangallo, 112 Nev. at 1536, 930 P.2d at 102 (abrogated on other grounds by Hart, 116 Nev. 558, 1 P.3d 969; see also Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984).

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.
Rose


_____, J.
Young


_____, J.
Agosti

cc: Hon. Jeffrey D. Sobel, District Judge
Attorney General/Carson City
Clark County District Attorney
Charles B. Harris
Clark County Clerk

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