

IN THE SUPREME COURT OF THE STATE OF NEVADA

RONALD JOHN VICKNEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 41082

FILED

MAY 11 2004

ORDER OF AFFIRMANCE

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

This is a proper person appeal from an order of the district court denying appellant Ronald Vickney's motion for an amended judgment of conviction.

On August 7, 2002, the district court convicted Vickney, pursuant to a guilty plea, of driving a motor vehicle while under the influence of a controlled substance or intoxicating liquor. The district court determined that this was Vickney's third offense and sentenced him to serve a term of 12 to 48 months in the Nevada State Prison. The district court ordered that Vickney receive 9 days credit for time served. No direct appeal was taken.

On November 7, 2002, Vickney filed a motion for an amended judgment of conviction in which he sought credit for the time spent in pre-sentence confinement. On December 12, 2002, the district court denied Vickney's motion, noting that Vickney had a number of other criminal convictions. This appeal followed.

Vickney claimed that he was entitled to an additional 288 days credit for time served from October 23, 2001 through August 7, 2002. He specifically contended that: "On October 23, 2002, while in custody on an unrelated charge in Carson City, a hold was placed on Defendant for

the instant case, and he remained in custody until his sentencing on this case on August 7, 2002."

NRS 34.724(2)(c) provides that a post-conviction petition for a writ of habeas corpus is "the only remedy available to an incarcerated person to challenge the computation of time that he has served pursuant to a judgment of conviction." Vickney's request for jail time credits is a challenge to the computation of the time he has served. Therefore, Vickney should properly have filed a petition for a writ of habeas corpus to challenge the computation of his jail time credits.¹

Our review of the record on appeal indicates that Vickney has failed to provide sufficient facts to warrant the relief requested.² For part of the time period at issue, it appears that Vickney served time in jail pursuant to a judgment of conviction for another offense. Vickney is not entitled to jail time credit for the amount of time spent in confinement pursuant to a judgment of conviction for another offense.³ Based on the record, we cannot determine whether Vickney is entitled to additional jail time credit because he failed to allege specific facts supporting his motion.

¹See Pangallo v. State, 112 Nev. 1533, 1535, 930 P.2d 100, 102 (1996), limited in part on other grounds by Hart v. State, 116 Nev. 558, 1 P.3d 969 (2000).


²See id. at 1536, 930 P.2d at 102-03 (stating that an appeal will be dismissed if appellant has failed to meet the relevant statutory requirements, including the requirement of NRS 34.370(3) to provide a factual basis for the relief requested).


³See NRS 176.055.

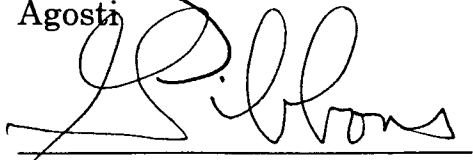
We therefore affirm the district court's order and dismiss this appeal without prejudice.⁴

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Vickney is not entitled to relief and that briefing and oral argument are unwarranted.⁵ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

cc: Hon. John P. Davis, District Judge
Ronald John Vickney
Attorney General Brian Sandoval/Carson City
Mineral County District Attorney
Mineral County Clerk

⁴See Pangallo, 112 Nev. at 1537, 930 P.2d at 103 (noting that petitions for jail time credits that fail for lack of specificity should be dismissed without prejudice to the petitioner's right to file a new habeas petition "properly supported by specific factual allegations").

⁵See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).