

IN THE SUPREME COURT OF THE STATE OF NEVADA

PHILLIP DOUGLAS SHARPE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 41192

FILED

AUG 29 2003

ORDER OF AFFIRMANCE

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

This is an appeal from an order of the district court denying appellant Phillip Douglas Sharpe's motion for additional credit for presentence confinement.

On February 10, 2003, Sharpe was convicted, pursuant to a guilty plea entered on December 16, 1996, of one count of mid-level trafficking in a controlled substance, a category B felony.¹ On February 10, 2003, the district court also sentenced Sharpe in absentia to serve a prison term of 35-156 months; he was given credit for 31 days time served.² At the time of his sentencing, Sharpe was incarcerated in San Diego, California, on charges unrelated to the instant case. On February 20, 2003, Sharpe filed a motion in the district court to amend the judgment of conviction. In the motion, Sharpe contended that he was entitled to an additional 460 days credit for time served in presentence confinement in California. On March 3, 2003, the district court conducted

¹Sharpe had failed to appear for his sentencing hearing and apparently fled from the jurisdiction.

²On December 31, 2002, Sharpe filed in the district court a waiver of personal appearance and agreement to be sentenced in absentia.

a hearing on the motion, heard the arguments of counsel, and denied the motion. This appeal followed.

Sharpe contends that the district court erred in denying his motion for additional credit for presentence confinement. Citing to NRS 176.055(1)³ and Kuykendall v. State⁴ for support, the whole of Sharpe's argument is that "[b]ecause [he] was denied bail as the result of the Nevada detainer put in place in this case, he is entitled to credit for that time." We disagree.

We conclude that Sharpe's contention is belied by the record and without merit. First, when Sharpe failed to appear for his sentencing, originally scheduled for January 21, 1997, the district court issued a bench warrant for his arrest, fixing bail at \$10,000.00. When Sharpe was eventually arrested in San Diego on November 7, 2001, on charges he concedes are unrelated to the instant case, the California court set bail at \$1,000,000.00. Therefore, Sharpe was not denied bail based on a Nevada detainer as he alleges. Second, this court recently stated that "a defendant is entitled to credit for time served in presentence confinement

³NRS 176.055(1) states in part:

[W]henever a sentence of imprisonment in the county jail or state prison 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 before conviction, unless his confinement was pursuant to a judgment of conviction for another offense.

Emphasis added.

⁴112 Nev. 1285, 1286, 926 P.2d 781, 782 (1996).


in another jurisdiction when that confinement was solely pursuant to the charges for which he was ultimately convicted” in Nevada.⁵ Therefore, Sharpe is not entitled to credit against his Nevada sentence for the time spent in confinement in California on charges he concedes are unrelated. We also note that Sharpe received the same credit for presentence confinement in the California case that he is asking for in the instant case. Accordingly, we conclude that the district court did not err in denying Sharpe’s motion for additional credit.

Having considered Sharpe’s contention and concluded that it is belied by the record and without merit, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Rose


_____, J.
Maupin


_____, J.
Gibbons

cc: Hon. Michael R. Griffin, District Judge
Nathan Tod Young
Attorney General Brian Sandoval/Carson City
Carson City District Attorney
Carson City Clerk

⁵Nieto v. State, 119 Nev. ___, ___, 70 P.3d 747, 748 (2003).