

IN THE SUPREME COURT OF THE STATE OF NEVADA

PHILIP EDWARD BRYSON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 41459

**FILED**

FEB 19 2004

ORDER OF AFFIRMANCE

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

This is a proper person appeal from a district court order denying appellant Philip Bryson's post-conviction petition for a writ of habeas corpus.

On March 17, 2003, the district court convicted Bryson, pursuant to a guilty plea, of one count of trafficking in a controlled substance (felony). The district court sentenced Bryson to serve a term of 48 months in the Nevada State Prison with the possibility of parole in 12 months. Bryson's term was to run concurrently with sentences imposed in cases C165559 and C178231. No direct appeal was taken.

On March 27, 2003, Bryson filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. Bryson filed a reply. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent Bryson or to conduct an evidentiary hearing. On May 21, 2003, the district court issued an order summarily denying Bryson's petition. This appeal followed.

In his petition, Bryson contended that the district court improperly denied him credit in his judgment of conviction for time he served in pre-sentence incarceration. Specifically, Bryson contended that

he was granted parole in case C165559 on October 1, 2002, and, therefore, he should have been eligible for bail while he was awaiting sentencing in his current case. On this basis, Bryson contended that he should have been credited the days between October 1, 2002, and the date his current judgment of conviction was entered.

A petitioner may file a post-conviction petition for a writ of habeas corpus to challenge the computation of time that he has served pursuant to a judgment of conviction.<sup>1</sup> NRS 176.055(1) provides that a defendant is entitled to credits against his sentence for the amount of time he spent in confinement prior to the judgment of conviction. However, NRS 176.055(1) also provides that a defendant is not entitled to credit when the confinement "was pursuant to a judgment of conviction for another offense."

Our review of the record reveals that on August 29, 2001, Bryson was sentenced to serve a term of 48 months in the Nevada State Prison with the possibility of parole in 18 months for case C165559. Although Bryson submitted documentation showing that, on June 14, 2002, the Nevada Board of Parole Commissioners indicated that he would be granted parole in that case effective October 1, 2002, his parole was contingent upon the submission of approved release plans. Prior to being paroled, and by Bryson's own admission, a "hold" was placed on his case. Bryson has failed to show that he was ever actually released on parole. Thus, Bryson was still serving his sentence in case C165559 when his judgment of conviction and sentence were entered in the instant case.

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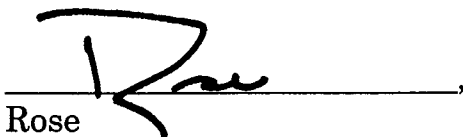
<sup>1</sup>See NRS 34.724(2)(c); Pangallo v. State, 112 Nev. 1533, 1535, 930 P.2d 100, 102 (1996), limited in part on other grounds by Hart v. State, 116 Nev. 558, 1 P.3d 969 (2000).

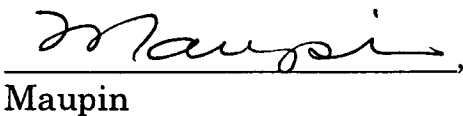
Bryson has failed to show that he was entitled to bail or any credits pursuant to NRS 176.055. Therefore, we conclude that the district court did not err in computing Bryson's sentence and properly denied his petition.

Having review the record on appeal, and for the reasons set forth above, we conclude that Bryson is not entitled to relief and that briefing and oral argument are unwarranted.<sup>2</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 C.J.  
Shearing

 J.  
Rose

 J.  
Maupin

cc: Hon. Kathy A. Hardcastle, District Judge  
Philip Edward Bryson  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>2</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).