

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WILLIAM JOSEPH GROW,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 84138-COA

FILED

JUN 29 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

William Joseph Grow appeals from a judgment of conviction entered pursuant to a guilty plea of burglary of a business. Fourth Judicial District Court, Elko County; Mason E. Simons, Judge.

Grow argues the district court erred by failing to award him 62 days of credit in this case. Grow was sentenced the same day in three different cases, and his sentences were ordered to run consecutively for an aggregate total of 144 to 360 months in prison. Between the three cases, Grow spent a total of 129 days in confinement prior to sentencing, though he only spent 62 days in confinement in relation to this case. The district court awarded 129 days of credit toward the aggregate minimum total of all three cases. Grow argues that he should have been separately awarded 129 days in one case, 128 days in another, and 62 days in this case even though the presentence incarcerations overlapped. He also argues that no specific statute or case would prevent him from receiving the credits in each of the cases.

NRS 176.055(1) states that, except in circumstances not present here,

[W]henver a sentence of imprisonment... is imposed, the court may order that credit be allowed

against the duration of the sentence, including any minimum term or minimum aggregate term, as applicable, thereof prescribed by law, for the amount of time which the defendant has actually spent in confinement before conviction

The purpose of NRS 176.055(1) is to ensure all time served is credited towards a defendant's ultimate sentence. *Kuykendall v. State*, 112 Nev. 1285, 1287, 926 P.2d 781, 783 (1996). Grow's ultimate sentence was the aggregate consecutive terms imposed between the cases. Based on NRS 176.055(1) and *Kuykendall*, the district court could not have applied the credits separately to each case because it was required to apply the credits to the minimum aggregate term. Thus, we conclude the district court properly applied the total amount of time that Grow actually spent in confinement toward his minimum aggregate term and, therefore, Grow failed to demonstrate he was entitled to any additional credits. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Mason E. Simons, District Judge
Ben Gaumond Law Firm, PLLC
Attorney General/Carson City
Elko County District Attorney
Elko County Clerk