

SUPREME COURT OF NEVADA

Nieto v. State, 119 Nev. 229

70 P.3d 747 (2003) · No. No. 39976 · Decided June 11, 2003

SUMMARY

The Supreme Court of Nevada held that a defendant is entitled to credit against a sentence for presentence confinement in another jurisdiction when the confinement was solely based on the charges for which the defendant was ultimately convicted. The court reversed the district court's denial of Joshua I. Nieto's motion and remanded for an evidentiary hearing to determine the amount of additional credit due.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Per Curiam; Shearing; Leavitt; Becker
JURISDICTION	Nevada
DECIDED	June 11, 2003
DOCKET	No. 39976
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from an order of the district court denying a motion for additional credit for time served in presentence confinement.
PRECEDENTIAL VALUE	Published Nevada Supreme Court opinion; precedential
PARTIES	Joshua I. Nieto v. State of Nevada

TOPICS

- criminal procedure
- sentencing
- post-conviction relief
- statutory interpretation
- appellate procedure

PRACTICE AREAS

- criminal law
- criminal procedure
- sentencing
- post-conviction relief

QUESTIONS PRESENTED

1. Whether a defendant is entitled under NRS 176.055 to credit against a Nevada sentence for presentence confinement in another jurisdiction while awaiting extradition, when the confinement was solely attributable to the charges for which the defendant was ultimately convicted and sentenced.

2. Whether the district court erred by denying the motion without conducting an evidentiary hearing.

HOLDINGS

1. A defendant is entitled to credit against a sentence for time spent in presentence confinement in another jurisdiction when the confinement was solely pursuant to the charges for which the defendant was ultimately convicted and sentenced.
2. The district court must conduct an evidentiary hearing to determine the exact amount of additional credit to which Nieto is entitled.

KEY QUOTATIONS

“Therefore, we conclude that a defendant is entitled to credit for time served in presentence confinement in another jurisdiction when that confinement was solely pursuant to the charges for which he was ultimately convicted.” (748)

“Having considered Nieto’s argument and concluded that it is meritorious, we order the judgment of the district court reversed and remand this matter to the district court for an evidentiary hearing to determine the exact amount of additional credit to which Nieto is entitled.” (749)

FACTUAL BACKGROUND

Nieto was arrested in California on April 11, 2001, pursuant to a fugitive warrant relating to the Nevada attempted-murder charges, and was extradited to Nevada on or about June 5, 2001. He alleged, and the State conceded or did not refute, that the Nevada charges were the sole reason for his California confinement and that he waived extradition and voluntarily requested return to Nevada. After pleading guilty, he sought credit for the period of California confinement, but the district court denied the request.

PROCEDURAL HISTORY

Nieto pleaded guilty to attempted murder and received a sentence of 60 to 180 months, with credit for 146 days served. He later moved for additional credit for time spent confined in California while awaiting extradition to Nevada. The district court denied the motion without an evidentiary hearing, and Nieto appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the district court’s order and conduct an evidentiary hearing to determine the exact amount of additional credit to which Nieto is entitled. Nieto bears the burden of providing specific factual information supporting the claim.

CASES CITED

- Anglin v. State, 90 Nev. 287, 525 P.2d 34 (1974)

- State v. Harnum, 142 N.H. 195, 697 A.2d 1380 (1997)
- Kuykendall v. State, 112 Nev. 1285, 926 P.2d 781 (1996)
- Pangallo v. State, 112 Nev. 1533, 930 P.2d 100 (1996)
- Hart v. State, 116 Nev. 558, 1 P.3d 969 (2000)

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