

IN THE SUPREME COURT OF THE STATE OF NEVADA

HOMER R. BRAGGINS A/K/A HOMER
R. BRAGGINS, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43907

FILED

FEB 03 2005

ORDER OF AFFIRMANCE

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

This is a proper person appeal from an order of the district court denying appellant Homer Braggins' motion for sentence modification. Eighth Judicial District Court, Clark County; Valorie Vega, Judge.

On July 17, 2002, the district court convicted Braggins, pursuant to a guilty plea, of attempted lewdness with a minor under the age of fourteen (count I), and two counts of statutory sexual seduction (counts II and III). The district court sentenced Braggins to serve a term of 48 to 120 months in the Nevada State Prison for count I, and terms of 12 to 30 months for counts II and III. All terms were imposed to run concurrently. Braggins did not file a direct appeal.

On July 22, 2004, Braggins filed a proper person motion for sentence modification in the district court. The State opposed the motion. Braggins filed a reply. On August 27, 2004, the district court denied Braggins' motion. This appeal followed.

In his motion, Braggins contended that prior to his sentencing, the district court received misinformation in the form of a letter written by a vengeful ex-employee. Braggins further argued that his pre-sentence investigation report contained inaccuracies, and the district court was biased.

A motion to modify a sentence "is limited in scope to sentences based on mistaken assumptions about a defendant's criminal record which work to the defendant's extreme detriment."¹ A motion to modify a sentence that raises claims outside the very narrow scope of issues permissible may be summarily denied.²


We conclude that the district court did not err in denying Braggins' motion. Braggins did not allege, and there is nothing in the record to suggest, that his sentence was based on a mistaken assumption about his criminal record that worked to his detriment. The issues Braggins' raised in his motion were outside the scope of a motion for sentence modification and he therefore failed to demonstrate that he was entitled to relief.


¹Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).


²Id. at 708-09 n.2, 918 P.2d at 325 n.2.

Having reviewed the record on appeal and for the reasons set forth above, we conclude that Braggins is not entitled to relief and that briefing and oral argument are unwarranted.³ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁴


_____, C.J.
Becker


_____, J.
Rose


_____, J.
Hardesty

cc: Hon. Valorie Vega, District Judge
Homer R. Braggins
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

³See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁴We have reviewed all documents that Braggins has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that Braggins has attempted to present claims or facts in those submissions that were not previously presented in the proceedings below, we have declined to consider them in the first instance.