

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONALD RAY LAWSON, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43982

FILED

NOV 24 2004

ORDER OF AFFIRMANCE

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

This is a proper person appeal from an order of the district court denying appellant's post-conviction "Motion to Correct Restitution and Amend the Order of Restitution." Ninth Judicial District Court, Douglas County; David R. Gamble, Judge.

On June 19, 2001, the district court convicted appellant, pursuant to an Alford plea,¹ of attempted murder with the use of a firearm. On that same date, the district court also convicted appellant, pursuant to a guilty plea, of mayhem. The district court sentenced appellant to serve a term of 96 to 240 months in the Nevada State Prison for the attempted murder conviction, with an equal and consecutive term for the use of a deadly weapon, and a consecutive term of 48 to 120 months for the mayhem conviction. The district court also order appellant to pay restitution in the amount of \$727,329.45. This court affirmed the

¹See North Carolina v. Alford, 400 U.S. 25 (1970).

judgment of conviction and sentence on appeal.² The remittitur issued on November 7, 2001.

On March 20, 2002, appellant filed a proper person post-conviction petition for a writ of habeas corpus. The district court appointed counsel, who filed a supplement to the petition. The State opposed the petition. Following an evidentiary hearing, the district court denied the petition. On appeal, this court affirmed the district court's denial of the petition.³

On June 24, 2004, appellant filed a proper person "Motion to Correct Restitution and Amend the Order of Restitution." The State opposed the motion. On September 3, 2004, the district court denied appellant's motion. This appeal followed.

Appellant alleged that the district court erred in ordering him to pay \$727,329.45 in restitution because some of the victim's expenses will be covered by insurance proceeds or by Nevada Victims of Crime. Appellant further alleged that the order for restitution was improper because the amount of restitution ordered was not supported by proper documentation.

²Lawson v. State, Docket No. 38211 (Order of Affirmance, October 11, 2001).

³Lawson v. State, Docket No. 40934 (Order of Affirmance, September 4, 2003).

To the extent that appellant's motion can be construed as a motion to correct an illegal sentence, we conclude that it falls outside the scope of permissible claims.⁴ Appellant's sentence was facially legal and thus he is not entitled to relief.

To the extent that appellant's motion can be construed as a motion to modify his sentence, we conclude appellant's claims fall outside the scope of claims permissible in a motion to modify a sentence.⁵ The alleged errors about which appellant complained did not constitute mistaken assumptions about his criminal record that worked to his extreme detriment. Accordingly, we conclude relief is not warranted in this regard.

Furthermore, as a separate and additional basis upon which to deny appellant relief, our review of the record on appeal reveals that this court previously concluded that the amount of restitution set forth in the presentence investigation report was adequately supported by documentation.⁶ The doctrine of the law of the case prevents further litigation of this issue and "cannot be avoided by a more detailed and precisely focused argument."⁷ Moreover, appellant's claim regarding

⁴See Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

⁵See id.

⁶Lawson v. State, Docket No. 40934 (Order of Affirmance, September 4, 2003).


⁷Hall v. State, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975).


payment of expenses by insurance proceeds lacks merit. Appellant's obligation to pay restitution may not be reduced because his victim has been reimbursed by insurance proceeds.⁸

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.⁹ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

cc: Hon. David R. Gamble, District Judge
Donald Ray Lawson Jr.
Attorney General Brian Sandoval/Carson City
Douglas County District Attorney/Minden
Douglas County Clerk

⁸See Martinez v. State, 115 Nev. 9, 12, 974 P.2d 133, 135 (1999).

⁹See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).