

IN THE SUPREME COURT OF THE STATE OF NEVADA

TIMOTHY AARON PORTER A/K/A  
TRAVIS JOHN PARKER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 44733  
**FILED**

JUN 16 2005

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

ORDER ALLOWING APPEAL TO PROCEED AND AFFIRMING THE  
ORDER OF THE DISTRICT COURT

This is a proper person appeal from an order of the district court denying a motion to modify a sentence. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

On April 7, 2000, the district court convicted appellant, pursuant to a guilty plea, of possession of a credit card without the cardholder's consent. The district court sentenced appellant to serve a term of twelve to thirty-four months in the Nevada State Prison. The district court suspended the sentence and ordered appellant to serve a term of probation not to exceed three years. The district court further imposed the prison sentence to run consecutively to the prison term in district court case CR99-0362. On November 9, 2001, the district court entered an order revoking appellant's probation and correcting the judgment to reflect sixty-four days of presentence credits. On appeal, this court affirmed the order of the district court revoking probation.<sup>1</sup>

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<sup>1</sup>Porter v. State, Docket Nos. 38903, 38904, 38913 (Order of Affirmance, February 12, 2002).

On August 31, 2004, appellant filed a proper person motion to modify his sentence in the district court. On November 16, 2004, the district court denied appellant's motion. This appeal followed.

Preliminarily, we note that this court's review of the documents before it indicated that appellant's notice of appeal may have been untimely filed. Having reviewed the State's response, we conclude that this appeal may proceed.<sup>2</sup>

In his motion, appellant requested that the district court modify his sentence because of major changes he had made in his life during his incarceration. Appellant noted that he had earned a high school diploma and college credits while incarcerated. Appellant also noted that he had participated in drug and alcohol programs available in the prison.

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."<sup>3</sup> A motion to modify a sentence that raises issues outside the very narrow scope of issues permissible may be summarily denied.<sup>4</sup>

Our review of the record on appeal reveals that the district court did not err in denying the motion. Appellant's request fell outside the narrow scope of claims permissible in a motion to modify a sentence. Although appellant's efforts at rehabilitation are commendable, they

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<sup>2</sup>See generally Kellogg v. Journal Communications, 108 Nev. 474, 835 P.2d 12 (1992).


<sup>3</sup>Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).


<sup>4</sup>Id. at 708-09 n.2, 918 P.2d at 325 n.2.


cannot serve as the basis for a motion to modify a sentence after the defendant has begun serving his sentence. Therefore, we affirm the order of the district court.

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.<sup>5</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Hardesty

cc: Hon. Brent T. Adams, District Judge  
Timothy Aaron Porter  
Attorney General Brian Sandoval/Carson City  
Attorney General Brian Sandoval/Las Vegas  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk

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<sup>5</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).