

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT JAMES LIPPNIK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45548

FILED

NOV 10 2005

ORDER OF AFFIRMANCE

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

This is a proper person appeal from an order of the district court denying a motion to modify sentence. Eighth Judicial District Court, Clark County; David Wall, Judge.

On September 5, 2003, the district court convicted appellant, pursuant to a guilty plea, of one count of trafficking in a controlled substance and one count of possession of a firearm by an ex-felon. The district court sentenced appellant to serve five to fifteen years and a consecutive sentence of twelve to thirty-two months in the Nevada State Prison. Appellant also received credit for fifty-nine days. No direct appeal was taken.

On May 31, 2005, appellant filed a proper person motion to modify sentence in the district court. The State opposed the motion. On August 3, 2005, the district court denied the motion. This appeal followed.

In his motion, appellant claimed that during his sentencing, his counsel unreasonably failed to request the court sentence him to concurrent, not consecutive, terms.

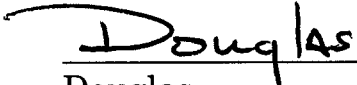
A motion to modify a sentence "is limited in scope to sentences based on mistaken assumptions about a defendant's criminal record which

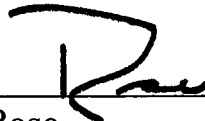
work to the defendant's extreme detriment."¹ A motion to modify a sentence that raises issues outside the very narrow scope of issues permissible may be summarily denied.²

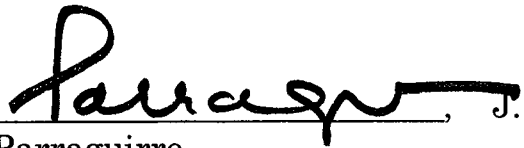
Our review of the record on appeal reveals that appellant's counsel's decision not to request concurrent sentences is outside the scope of issues permissible in this motion and appellant failed to demonstrate that the district court relied on any mistaken assumptions about appellant's criminal record which worked to appellant's extreme detriment. Therefore, the district court did not err in denying appellant's motion.

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.³ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Douglas


_____, J.
Rose


_____, J.
Parraguirre

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.

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

cc: Hon. David Wall, District Judge
Robert James Lippnik
Attorney General
Clark County District Attorney David J. Roger
Clark County Clerk