

IN THE SUPREME COURT OF THE STATE OF NEVADA

TOBIN KONRAD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45648

FILED

OCT 21 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying a motion for sentence modification. Eighth Judicial District Court, Clark County; Joseph T. Bonaventure, Judge.

On March 18, 2004, the district court convicted appellant, pursuant to a guilty plea, of one count of attempted possession of a controlled substance. The district court sentenced appellant to serve a term of twelve to forty-eight months in the Nevada State Prison. The sentence was suspended and appellant was placed on probation for an indefinite term not to exceed three years. On June 10, 2004, the district court entered an order revoking appellant's probation, imposing the original sentence and amending the judgment of conviction to include 102 days' credit for time served. Appellant did not file a direct appeal.

On June 20, 2005, appellant filed a proper person "Motion for Sentence Relief/to Lessen the Maximum Term of Imprisonment" in the district court. The State opposed the motion. On July 12, 2005, the district court denied appellant's motion. This appeal followed.

In his motion, appellant claimed that drug use prohibited him from complying with the terms of his probation and requested the district court to reduce the maximum term of his sentence to thirty months so that he could enter a drug court program.


Because appellant sought to modify his judgment of conviction, we conclude that the motion is properly construed as a motion to modify a sentence. 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 the district court did not err in denying appellant's motion. Appellant 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 appellant 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 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

cc: Hon. Joseph T. Bonaventure, District Judge
Tobin Konrad
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).