

IN THE SUPREME COURT OF THE STATE OF NEVADA

BOBBY RAY STEVENSON A/K/A
RICHARD E. SMITH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45847

FILED

NOV 22 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
J. Richards
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; Michelle Leavitt, Judge.

On April 2, 1993, the district court convicted appellant, pursuant to a guilty plea, of robbery. The district court sentenced appellant to serve a term of eight years in the Nevada State Prison. The district court set appellant's sentence to run consecutive to a sentence in Oklahoma and returned appellant to Oklahoma to complete that sentence.

On July 20, 2005, appellant filed a proper person motion for sentence modification in the district court. The State opposed the motion. On August 11, 2005, the district court denied appellant's motion. This appeal followed.

In his motion, appellant claimed that the district court relied on mistaken assumptions of fact and law in making his sentence consecutive to the Oklahoma sentence. At the time of the robbery in this

case, appellant was under sentence for a felony conviction in Oklahoma. While serving that sentence, appellant walked away from a work detail.

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

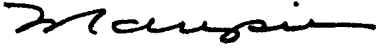
Our review of the record on appeal reveals that the district court did not err in denying appellant's motion. Appellant's claim fell outside the narrow scope of issues permissible in a motion to modify sentence. As a separate and independent ground for denying appellant's motion, the claim lacked merit. Appellant's reliance on NRS 212.090(1) is misplaced, as it refers only to whether a penalty for escape should run concurrently or consecutively to the sentence an escapee was serving when he escaped. It does not pertain to whether the sentence for an offense committed in Nevada by a person under penalty of imprisonment in another jurisdiction should be set to run concurrently or consecutively to the sentence pending in the other jurisdiction.


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

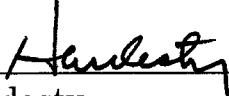
²Id. at 708-09 n.2, 918 P.2d at 325 n.2.

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.
Maupin


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. Michelle Leavitt, District Judge
Bobby Ray Stevenson
Attorney General George Chanos/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).