

IN THE SUPREME COURT OF THE STATE OF NEVADA

LLOYD STEVEN BEVERLY A/K/A  
LLOYD STEVEN BEVERLY, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 46547

**FILED**

**MAR 27 2006**

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

ORDER OF AFFIRMANCE

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

On January 13, 2000, the district court convicted appellant, pursuant to a jury verdict, of one count of conspiracy to commit burglary (a gross misdemeanor), two counts of burglary, one count of attempted burglary, and one count of possession of burglary tools (a gross misdemeanor). The district court adjudicated appellant a habitual criminal for the three felony counts and sentenced appellant to serve three consecutive terms of sixty to one hundred and ninety months in the Nevada State Prison and concurrent terms of one year each for the other counts.<sup>1</sup> This court dismissed appellant's appeal from his judgment of conviction.<sup>2</sup> The remittitur issued on October 17, 2000. Appellant

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<sup>1</sup>On July 18, 2001, the district court entered an amended judgment of conviction referencing the habitual criminal statute.

<sup>2</sup>Beverly v. State, Docket No. 35526 (Order Dismissing Appeal, September 21, 2000).

unsuccessfully sought relief in a post-conviction petition for a writ of habeas corpus and a motion to correct an illegal sentence.<sup>3</sup>

On November 30, 2005, appellant filed a proper person motion for sentence modification in the district court. The State opposed the motion. On December 23, 2005, the district court denied appellant's motion. This appeal followed.

In his motion, appellant claimed that the district court mistakenly assumed that his California convictions were credible. Appellant appeared to claim that the California convictions were not credible because he entered guilty pleas in those cases in fear of retribution from the Los Angeles Police Department. He further claimed that the district court failed to conduct a hearing on the validity of the California convictions pursuant to NRS 207.016(3) and failed to weigh the factors in determining whether to adjudicate appellant a habitual criminal.

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>4</sup> A motion to modify a sentence that raises issues outside the very narrow scope of issues permissible may be summarily denied.<sup>5</sup>

Our review of the record on appeal reveals that the district court did not err in denying appellant's motion. Appellant failed to demonstrate that the California convictions were invalid, and thus, he

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<sup>3</sup>Beverly v. State, Docket No. 45547 (Order of Affirmance, September 16, 2005); Beverly v. State, Docket No. 38267 (Order of Affirmance, August 21, 2002).


<sup>4</sup>Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).


<sup>5</sup>Id. at 708-09 n.2, 918 P.2d at 325 n.2.

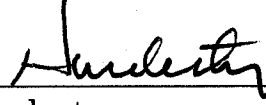
failed to demonstrate that the district court relied on a mistake about his criminal record that worked to his extreme detriment. Further, any challenge to the habitual criminal proceedings was improperly raised in the instant motion as any challenge to the proceedings should have been raised on direct appeal. 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>6</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>7</sup>

  
\_\_\_\_\_, J.  
Maupin

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

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

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<sup>6</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

<sup>7</sup>We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.

cc: Hon. Lee A. Gates, District Judge  
Lloyd Steven Beverly  
Attorney General George Chanos/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk