

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN L. SCOTT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46694

FILED

MAY 19 2006

JANETTE A. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's motion to comply. Eighth Judicial District Court, Clark County; John S. McGroarty, Judge.

On June 4, 2002, the district court convicted appellant, pursuant to a jury verdict, of one count of possession of a stolen vehicle (Count 1), two counts of possession of a debit or credit card without the cardholder's consent (Counts 2 and 3), and one count of failure to stop on the signal of a police officer (Count 4). The district court adjudicated appellant a habitual criminal and sentenced appellant to serve the following terms in the Nevada State Prison: for Count 1, a term of life with the possibility of parole; for Count 2, a term of life with the possibility of parole, to run consecutively to Count 1; for Count 3, a term of life with the possibility of parole, to run concurrently to Count 2; and for Count 4, a term of life with the possibility of parole, to run consecutively to Count 3.

On appeal, this court reversed appellant's conviction for Count 4 and affirmed his remaining convictions.¹

On December 27, 2005, appellant filed a proper person motion requesting the district court dismiss Count 4 in compliance with this court's order on direct appeal and resentence him. On January 10, 2006, the State filed a response to the motion. On January 11, 2006, the district court entered an amended judgment of conviction that struck Count 4 and its corresponding sentence. On January 24, 2006, the district court entered an order denying appellant's motion to comply as moot. This appeal followed.

Our review of the record on appeal reveals that the district court did not err in denying appellant's motion. On direct appeal, this court reversed the conviction for Count 4 and remanded the matter to the district court for the entry of a corrected judgment of conviction. This court did not direct the district court to conduct a new sentencing hearing. The January 11, 2006, amended judgment of conviction corrected the judgment of conviction as directed by this court. Accordingly, we affirm the denial of appellant's motion.

Additionally, to the extent that appellant's motion can be construed as a motion to modify his sentence, we conclude that the district court did not err in denying the motion.

¹Scott v. State, Docket No. 39654 (Order Affirming in Part, Reversing in Part and Remanding, April 6, 2004).

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."² A motion to modify a sentence that raises issues outside the very narrow scope of issues permissible may be summarily denied.³

Appellant argued that he should be resentenced and a new presentence investigation report prepared because the district court considered the facts regarding Count 4 when it rendered his original sentence. Our review of the record on appeal reveals that appellant failed to demonstrate that his sentence was based upon a mistaken assumption about his criminal record that worked to his extreme detriment. The record does not indicate that the district court relied upon the conviction for Count 4 for the purpose of adjudicating appellant a habitual criminal.⁴ When appellant was convicted of the instant crimes he had at least seven prior felony convictions and several misdemeanor and gross misdemeanor convictions that dated back to 1984. These convictions were sufficient to support appellant's adjudication as a habitual criminal for his remaining

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

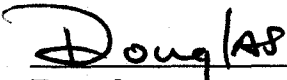
³Id. at 708-09 n.2, 918 P.2d at 325 n.2.

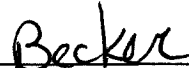
⁴See McGervey v. State, 114 Nev. 460, 466, 958 P.2d 1203, 1207-08 (1998) (holding that a present conviction does not count for the purpose of adjudication as a habitual criminal).

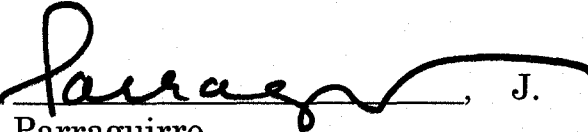
counts,⁵ and appellant failed to demonstrate any error regarding his prior criminal record. Accordingly, we affirm the denial of appellant's motion.

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.⁶ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Douglas


_____, J.
Becker


_____, J.
Parraguirre

cc: Eighth Judicial District Court Dept. 16, District Judge
Steven L. Scott
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

⁵See NRS 207.010(1)(b)(2).

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