

IN THE SUPREME COURT OF THE STATE OF NEVADA

JASON MCKINLEY WARD,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 46945

**FILED**

JUL 14 2006

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
DEPUTY CLERK

ORDER OF AFFIRMANCE

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

On January 13, 1987, the district court convicted appellant, pursuant to a jury verdict, of one count of burglary and one count of first degree murder with the use of a deadly weapon of a victim sixty-five years or older. The district court sentenced appellant to serve two consecutive terms of life in the Nevada State Prison without the possibility of parole for the murder count and a concurrent term of ten years for the burglary count. This court dismissed appellant's appeal from his judgment of conviction.<sup>1</sup> Appellant unsuccessfully sought post-conviction relief from his conviction.<sup>2</sup>

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<sup>1</sup>Ward v. State, Docket No. 18115 (Order Dismissing Appeal, March 30, 1988).

<sup>2</sup>Ward v. State, Docket No. 43253 (Order of Affirmance, October 7, 2004) (motion to fully comply with plea agreement), Ward v. State, Docket No. 34268 (Order of Affirmance, April 26, 2001) (post-conviction petition for a writ of habeas corpus), Ward v. State, Docket Nos. 27291 and 29778 (Order Dismissing Appeals, February 24, 1998) (post-conviction petition for a writ of habeas corpus and motion to dismiss), Ward v. State, Docket No. 20161 (Order Dismissing Appeal, December 29, 1989) (petition for

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On January 17, 2006, appellant filed a proper person motion for sentence modification in the district court. The State opposed the motion. On February 24, 2006, the district court denied appellant's motion. This appeal followed.

In his motion, appellant claimed that the Nevada Pardons Board refused to honor an alleged plea agreement that he be allowed to appear before the Pardons Board before January 13, 2006. Appellant asked that his sentences of life without the possibility of parole be modified to life sentences with the possibility of parole and that he be immediately placed on parole. Appellant set forth his own conditions for parole release.

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>3</sup> A motion to modify a sentence that raises issues outside the very narrow scope of issues permissible may be summarily denied.<sup>4</sup>

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post-conviction relief). In addition, appellant filed a document labeled, "sentence expiration date." This court concluded that the district court properly denied the claim relating to good time credits, but remanded the matter for the district court to enter an amended judgment of conviction setting forth presentence credits. Ward v. State, Docket No. 30172 (Order of Remand, February 24, 1998). An amended judgment of conviction was entered on March 17, 1998. Finally, appellant filed a motion to vacate the sentence in 1995. The motion was denied on July 26, 1996. Appellant did not pursue an appeal from the order of the district court denying his motion.

<sup>3</sup>Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

<sup>4</sup>Id. at 708-09 n.2, 918 P.2d at 325 n.2.

Our review of the record on appeal reveals that the district court did not err in denying the motion. Appellant's claim fell outside the narrow scope of claims permissible. Appellant did not demonstrate that the district court relied upon any mistakes about his criminal record that worked to his extreme detriment. As a separate and independent ground to deny relief, we conclude that appellant's claim that the Nevada Pardons Board has violated a plea agreement is patently without merit. Although the record reveals that appellant waived his penalty hearing and agreed to two consecutive sentences of life without the possibility of parole, the record does not support appellant's allegation that an additional term included that he be required to appear before the Pardons Board by January 13, 2006.<sup>5</sup> Further, the district court's order in 1996 denying his motion to vacate sentence did not guarantee appellant the right to a hearing before the Pardons Board; rather, the 1996 order set forth that appellant would be permitted to file an application to appear before the Pardons Board after he had served twenty years. The Pardons Board determines which applications it will consider at a hearing, and appellant did not demonstrate that he has been deprived of the right to file an application.<sup>6</sup> Therefore, we affirm the order of the district court.

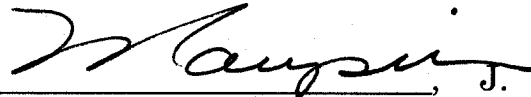
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<sup>5</sup>Appellant's allegation is not supported by the record on appeal. Subsequent to this appeal being docketed in this court, we note that the district court warned appellant that he may be sanctioned if he continued to raise this allegation. The district court did not err in so cautioning appellant.

<sup>6</sup>See NRS 213.020; NAC 213.090.

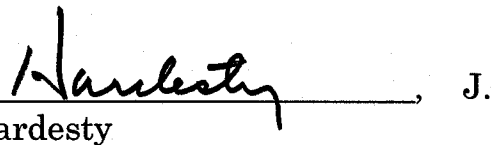
Having reviewed the record on appeal and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.<sup>7</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>8</sup>

 J.

Maupin  
 J.

Gibbons

 J.  
Hardesty

cc: Hon. Donald M. Mosley, District Judge  
Jason McKinley Ward  
Attorney General George Chanos/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>7</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

<sup>8</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.