

IN THE SUPREME COURT OF THE STATE OF NEVADA

CARL LEE MARTIN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 47309

**FILED**

**NOV 27 2006**

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richard*  
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; Stewart L. Bell, Judge.

On June 6, 2000, the district court convicted appellant, pursuant to a guilty plea, of two counts of second degree murder.<sup>1</sup> The district court sentenced appellant to serve two consecutive terms of life in the Nevada State Prison with the possibility of parole. The district court ordered that these sentences run concurrently with a sentence in another district court case. No direct appeal was taken.

On March 21, 2006, appellant filed a proper person motion for sentence modification in the district court. The State opposed the motion.

---

<sup>1</sup>Appellant was originally convicted pursuant to a jury trial of two counts of first degree murder with the use of a deadly weapon, two counts of first degree kidnapping with the use of a deadly weapon, one count of burglary with the use of a deadly weapon, one count of sexual assault with the use of a deadly weapon, and one count of robbery with the use of a deadly weapon. This court reversed appellant's conviction and remanded for a new trial. See Ducksworth v. State, 113 Nev. 780, 942 P.2d 157 (1997) (Ducksworth was appellant's co-defendant). Appellant entered a guilty plea upon remand.

On April 21, 2006, the district court denied appellant's motion. This appeal followed.

In his motion, appellant claimed that there were errors in the presentence investigation report and errors in the preparation and dissemination of the report. Appellant further claimed that the State at sentencing improperly presented an uncharged crime for the district court's consideration—appellant had been a suspect in another murder. Finally, appellant appeared to make an argument that his due process rights were violated because his past criminal activity and the uncharged crime were not presented to a jury and not proven beyond a reasonable doubt.

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

Our review of the record on appeal reveals that the district court did not err in denying the motion. Appellant failed to demonstrate that the district court relied upon any mistaken assumptions about his criminal record that worked to his extreme detriment. Although appellant claimed that the presentence investigation report contained errors, he failed to demonstrate that there was any errors in the presentence investigation report. Appellant failed to demonstrate that the district

---


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

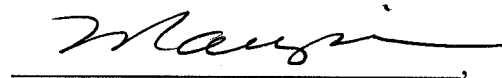
<sup>3</sup>Id. at 708-09 n.2, 918 P.2d at 325 n.2.

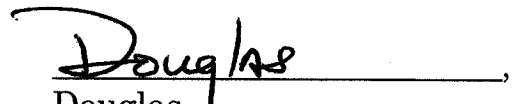
court relied upon impalpable or highly suspect evidence in sentencing appellant.<sup>4</sup> Appellant's claim that the State at sentencing introduced his status as a suspect in another murder is belied by the record.<sup>5</sup> Finally, appellant's due process claim fell outside the scope of claims permissible in a motion for sentence modification. Therefore, we affirm the order of the district court denying the 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.<sup>6</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Douglas

---

<sup>4</sup>See Silks v. State, 92 Nev. 91, 545 P.2d 1159 (1976).

<sup>5</sup>See Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984).

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

cc: Hon. Stewart L. Bell, District Judge  
Carl Lee Martin  
Attorney General George Chanos/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk