

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES EDWARD PROCTOR,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 47463

**FILED**

SEP 13 2006

ORDER OF AFFIRMANCE

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

This is a proper person appeal from an order of the district court denying a motion for resentencing. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

On January 13, 2006, the district court convicted appellant, pursuant to a guilty plea, of one count of grand larceny. The district court sentenced appellant to serve a term of two to five years in the Nevada State Prison. No direct appeal was taken.

On May 2, 2006, appellant filed a proper person document labeled "motion for resentencing" in the district court. The State opposed the motion. On May 19, 2006, the district court denied appellant's motion. This appeal followed.

In his motion, appellant claimed that the district court was potentially biased because the district court judge had acted on behalf of the State in a prior criminal proceeding against appellant in an unrelated criminal case and because the district court commented that appellant

was a "thug" and "hoodlum" at sentencing.<sup>1</sup> Appellant further complained that he only received the presentence investigation report minutes before sentencing and that his counsel did not challenge the failure to provide him with a timely copy of the report. He also claimed that the trial court failed to advise him of the right to a direct appeal. Appellant requested the district court modify his sentence to a maximum term of three years.

Because appellant sought to modify his sentence, appellant's motion is properly construed as a motion to modify a sentence. 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's claims fell outside the narrow scope of issues permissible, and appellant failed to demonstrate that the district court relied upon any material mistakes about his record that worked to his extreme detriment. Therefore, we affirm the order of the district court.

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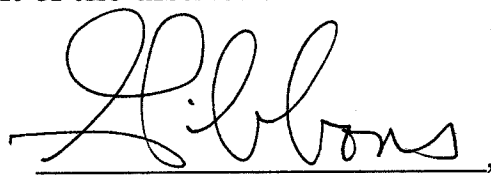
<sup>1</sup>The sentencing proceedings in the instant case were conducted by Judge Stewart L. Bell.

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

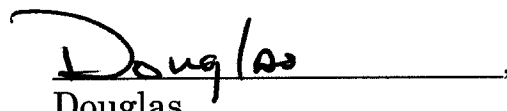
<sup>3</sup>Id. at 708-09 n.2, 918 P.2d at 325 n.2.

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>4</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Valerie Adair, District Judge  
James Edward Proctor  
Attorney General George Chanos/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>4</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).