


IN THE SUPREME COURT OF THE STATE OF NEVADA

RICKY LOUIS WEBB,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48397

FILED

MAY 1 1 2007

JANE T. M. BLOOM
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a motion for sentence modification. Second Judicial District Court, Washoe County; Jerome Polaha, Judge.

On April 3, 2001, the district court convicted appellant, pursuant to a guilty plea, of three counts of burglary. The district court sentenced appellant to serve three consecutive terms of 40 to 120 months in the Nevada State Prison. Appellant voluntarily withdrew his direct appeal.¹

On January 14, 2002, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The district court appointed counsel, and counsel filed a supplement to the petition. The State opposed the petition. After conducting an evidentiary hearing, the district court denied the majority of appellant's claims, but granted relief on appellant's claim that his trial counsel was ineffective at the sentencing hearing. Both the State and appellant appealed the

¹Webb v. State, Docket No. 37825 (Order Dismissing Appeal, June 18, 2001).

decision, and on appeal, this court affirmed the denial of appellant's claims and reversed the district court's order to the extent that it granted appellant relief.²

On September 25, 2006, appellant filed a proper person motion for sentence modification in the district court. The State opposed the motion. On October 26, 2006, the district court denied appellant's motion. This appeal followed.

In his motion, appellant claimed that the district court relied upon false information about his criminal record as follows: (1) the presentence investigation report stated that he had seven prior felony convictions whereas the State argued that he had nine prior felony convictions; (2) the presentence investigation report stated that he had five prison terms when in fact he had only four prior prison terms; (3) the 1982 juvenile offenses were actually certified to the adult court; (4) the May 29, 1982 burglary was dismissed; (5) the August 31, 1982 conviction involved multiple offenses but should only have been counted as one felony conviction; (6) district court case number CR93-0952 was dismissed; (7) the 1984 conviction involving multiple offenses counted as only one misdemeanor conviction; (8) charges from two different cases were joined in the 1992 conviction; and (9) aggravating factors for numerous alleged offenses were used but never proven. Appellant further claimed that he did not have an opportunity to refute any errors in the presentence investigation report. Appellant also argued that his conviction for three counts of burglary was multiplicitous in violation of double jeopardy.

²Webb v. State, Docket No. 41496 (Order Affirming in Part and Reversing in Part, January 30, 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."³ A motion to modify a sentence that raises issues outside the very narrow scope of issues permissible may be summarily denied.⁴

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 district court relied upon any material mistakes about his criminal record that worked to his extreme detriment. The district court stated at sentencing that it was basing appellant's sentence upon his past criminal conduct and the facts of the instant burglaries. Appellant failed to demonstrate that a correction of any of the alleged errors as set forth above would have made a difference in the outcome of the sentencing hearing. Appellant did in fact have an opportunity to refute the alleged mistakes in the presentence investigation report. Finally, appellant's claim that a conviction for three burglaries in the instant case violated double jeopardy fell outside the scope of claims permissible in a motion for sentence modification.⁵ Therefore, we affirm the order of the district court.

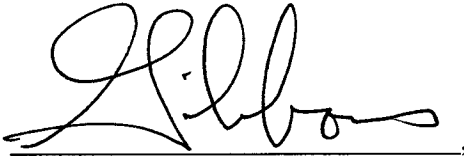
³Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

⁴Id. at 708-09 n.2, 918 P.2d at 325 n.2.

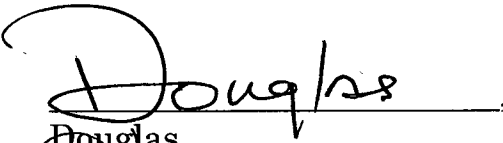
⁵Thus, this court declines to review the merits of this claim.

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

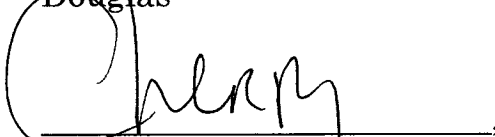
ORDER the judgment of the district court AFFIRMED.⁷

 J.

Gibbons

 J.

Douglas

 J.

Cherry

cc: Hon. Jerome Polaha, District Judge
Ricky Louis Webb
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

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

⁷We 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.