IN THE SUPREME COURT OF THE STATE OF NEVADA

EDUARDO MORA-MARIN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48669

FILED

JUN 06 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY J. Rubalcaba
CHIEF 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; Steven P. Elliott, Judge.

On December 17, 1998, the district court convicted appellant, pursuant to a jury verdict, of two counts of possession of a controlled substance and one count of trafficking in a controlled substance. The district court sentenced appellant to serve a term of ten to twenty-five years in the Nevada State Prison for trafficking.[1] This court dismissed appellant's appeal from his judgment of conviction.[2] The remittitur issued on August 1, 2000.

On September 29, 2000, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The

[1]For the possession counts, the district court imposed concurrent terms of twelve to forty-eight months. The district court suspended the sentences and placed appellant on probation for a period not to exceed twelve months. Appellant's probation was imposed to run concurrently with his prison term.

[2]Mora-Marin v. State, Docket No. 33554 (Order Dismissing Appeal, July 7, 2000).

State filed a motion to dismiss the petition. On November 27, 2000, the district court dismissed appellant's petition. This court affirmed the order of the district court on appeal.[3]

On June 3, 2003, appellant filed a second proper person post-conviction petition for a writ of habeas corpus in the district court. On July 8, 2003, the district court dismissed appellant's petition. This court affirmed the order of the district court on appeal.[4]

On January 4, 2006, appellant filed a proper person motion to correct an illegal sentence. The State opposed the motion. The district court denied the motion. This court affirmed the order of the district court on appeal.[5]

On August 14, 2006, appellant filed a proper person motion for sentence modification in the district court. On December 7, 2006, the district court denied appellant's motion. This appeal followed.

In his motion, appellant claimed that his conviction violated double jeopardy because he believed one of the possession counts merged with the trafficking count. Appellant reasoned that because he had already discharged the sentence for the possession count that the possession count was the primary count, and thus, he should not have to serve time on the trafficking count. Appellant also claimed that the

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[3]Mora-Marin v. State, Docket No. 37124 (Order of Affirmance, October 31, 2001).

[4]Mora-Marin v. State, Docket No. 41805 (Order of Affirmance, March 23, 2004).

[5]Mora-Marin v. State, Docket No. 46772 (Order of Affirmance, July 5, 2006).

district court relied upon false information in the presentence investigation report in sentencing him.

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."[6] A motion to modify a sentence that raises issues outside the very narrow scope of issues permissible may be summarily denied.[7]

Our review of the record on appeal reveals that the district court did not err in denying appellant's motion. Appellant's double jeopardy claim fell outside the very narrow scope of claims permissible in a motion for sentence modification.[8] Appellant did not specifically identify any false information in the presentence investigation report, and thus, appellant failed to demonstrate that the district court relied upon any mistaken assumptions about his criminal record that worked to his extreme detriment. Therefore, we affirm the order of the district court.

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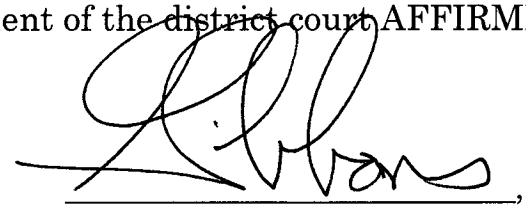
[6]Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

[7]Id. at 708-09 n.2, 918 P.2d at 325 n.2.

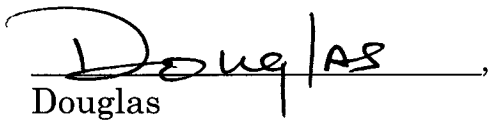
[8]We further note that this court previously concluded that a similar double jeopardy argument raised in the motion to correct an illegal sentence lacked merit as the record established that the each count was based upon separate controlled substances. The doctrine of the law of the case prevents further litigation of this issue and cannot be avoided by a more detailed and precisely focused argument. See Hall v. State, 91 Nev. 314, 535 P.2d 797 (1975).

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.[9] Accordingly, we

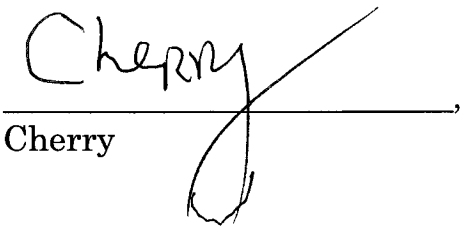
ORDER the judgment of the district court AFFIRMED.[10]



_____, J.
Gibbons



_____, J.
Douglas



_____, J.
Cherry

cc: Hon. Steven P. Elliott, District Judge
Eduardo Mora-Marin
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

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[9]See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

[10]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.