

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN RICHARD CROPPER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49108

FILED

AUG 30 2007

BY  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 for sentence modification. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

On December 20, 2001, the district court convicted appellant, pursuant to a guilty plea, of seven counts of embezzlement. The district court sentenced appellant to serve eight consecutive terms of 26 to 120 months in the Nevada State Prison.¹ The district court also ordered appellant to pay restitution in the amount of \$781,215. On September 17, 2004, the district court entered a corrected judgment in which it sentenced appellant to serve seven terms of 26 to 120 months in the Nevada State Prison.²

¹The district court enhanced one count pursuant to NRS 193.167 (the older victim enhancement).

²The district court removed the elderly victim enhancement.

On November 2, 2006, appellant filed a proper person motion for sentence modification in the district court. On February 28, 2007, the district court denied appellant's motion. This appeal followed.

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

In his motion, appellant claimed that (1) his convictions violated double jeopardy; (2) he was actually innocent of a count to which he pleaded guilty; and (3) his sentences violated the Eight Amendment's prohibition against cruel and unusual punishment. These claims fell outside the very narrow scope of claims permissible in a motion to modify. Thus, the district court did not err in denying these claims.

Appellant also claimed that the presentence investigation report contained materially false information that the district court relied upon to determine his sentence. First, he asserted that the presentence investigation report incorrectly indicated that he had been arrested twice. He asserted that he had only been arrested once and then rebooked pursuant to an amended indictment. The presentence investigation report indicates that appellant's entire criminal history consists of two arrests. However, even assuming that the presentence investigation report

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.

contained incorrect information as alleged by appellant, appellant failed to demonstrate that the district court relied upon the incorrect information to his detriment when sentencing him. The record on appeal indicates that the district court considered the severity of his embezzlement offenses and the impact of his crimes upon the victims when it determined his sentence. Further, the record also indicates that appellant was provided an opportunity to address the court during his sentencing hearing and appellant did not challenge any of the information contained in the PSI. Therefore, we conclude the district court did not err in denying this claim.

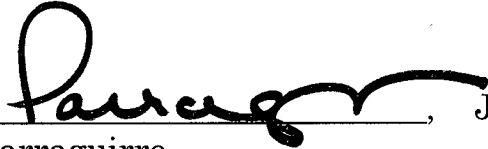
Second, appellant claimed that the presentence investigation report contained incorrect information and the district court relied on this suspect evidence regarding the amount of people appellant defrauded and the total amount of restitution. Specifically he claimed that (1) the presentence investigation report incorrectly indicated that he defrauded 25 people instead of only 24; (2) the presentence investigation report incorrectly included Danny Bell's \$20,000 loss in its total restitution calculation; (3) the presentence investigation report failed to specifically identify the victims by name; (4) the presentence investigation report did not verify some of the restitution amounts with the victims; and (5) the court received suspect evidence concerning Patricia Wohlleb's restitution amount of \$100,000. Appellant did not show that the presentence investigation report contained incorrect information that the district court relied upon to his detriment. While the presentence investigation report noted that appellant's indictment alleged that he defrauded 25 victims, the report only indicated 24 victims in determining the amount of restitution. The report did not identify the victims' names in association


with their corresponding losses, so it did not specifically indicate that Bell suffered a loss of \$20,000. The presentence investigation report included restitution amounts attributable to victims it was unable to contact in its total restitution determination of \$781,215. However, appellant admitted to causing losses of \$840,217 in signed "Judgment[s] of Confession," in which he acknowledged that he caused Bell to suffer a \$2,000 loss and Wohlleb to suffer a \$100,000 loss. Moreover, appellant was provided an opportunity to address the court during his sentencing hearing and appellant did not challenge any of the information contained in the presentence investigation report. Thus, appellant did not demonstrate that his sentence was based on mistaken assumptions that worked to his extreme detriment. Therefore, the district court did not err in denying this claim.

Third, appellant claimed that the presentence investigation report indicated bias toward him by referring to him "violat[ing] morals that people view as sacrosanct." Appellant did not demonstrate that the district court relied on this statement to his extreme detriment. The district court found that appellant gained the confidence of people, some through his church, to defraud them out of significant amounts of money. The district court specifically noted the scope and sophistication of appellant's scheme and its devastating impact on the victims in determining an appropriate sentence. Further, the record indicates that appellant had an opportunity to address the court during his sentencing hearing and he did not challenge any of the information contained in the presentence investigation report. Therefore, the district court did not err in denying 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.⁵ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Parraguirre


_____, J.
Hardesty


_____, J.
Saitta

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

⁵See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).