

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES WILLIAM OTTERNESS A/K/A
WILLIAM JAMES OTTERNESS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50622

FILED

APR 18 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

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; Jackie Glass, Judge.

On March 8, 2007, the district court convicted appellant, pursuant to a jury verdict, of one count of assault with a deadly weapon and one count of battery with the use of a deadly weapon. The district court sentenced appellant to serve the following terms in the Nevada State Prison: (1) for count 1, a term of 12 to 60 months; (2) for count 2, a term of 36 to 120 months, to run consecutive to count 1. No direct appeal was taken.

On October 17, 2007, appellant filed a proper person motion for sentence modification in the district court. The State opposed the motion. On November 13, 2007, the district court denied appellant's motion. This appeal followed.

In his motion, appellant claimed that the district court sentenced him based on mistakes of fact in his Presentence Investigation Report (PSI). Appellant alleged, among other things, that the PSI

erroneously indicated that appellant had been convicted of 6 felonies, 1 gross misdemeanor, and 6 misdemeanors when he had in fact been convicted of 3 felonies, 3 gross misdemeanors, and 3 misdemeanors. Appellant also requested relief because he is schizophrenic and was under the influence of methamphetamine at the time he engaged in the criminal conduct.

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.”¹ A motion to modify a sentence that raises issues outside the very narrow scope of issues permissible may be summarily denied.²

Our review of the record on appeal reveals that the district court did not err in denying appellant’s motion. While appellant highlighted the alleged errors on the PSI report, appellant failed to submit copies of his previous convictions indicating that the PSI report was incorrect.³ Moreover, appellant failed to establish that the district court relied on these alleged errors in sentencing appellant. The district court sentenced appellant in accordance with the agreed upon sentencing covenants in appellant’s guilty plea agreement. Appellant thus failed to demonstrate that there was a reasonable probability of a different sentence absent these errors.

¹Edwards, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

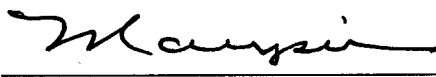
²Id. at 708-09 n.2, 918 P.2d at 325 n.2.

³See Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984) (holding that “bare” or “naked” claims, which are unsupported by specific facts, are insufficient to grant relief).

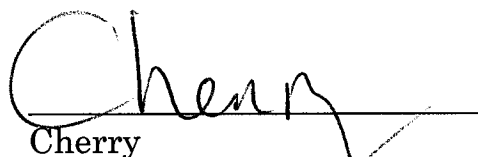
Appellant's other claims that he is schizophrenic and that he was under the influence of methamphetamine at the time he engaged in the criminal conduct fell outside the scope of claims permissible in a motion to modify a sentence.⁴ Accordingly, the district court did not err in denying these claims.

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

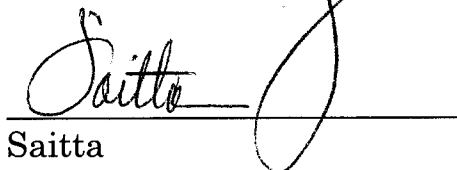
ORDER the judgment of the district court AFFIRMED.⁶

 _____, J.

Maupin

 _____, J.

Cherry

 _____, J.

Saitta

⁴See Edwards v. State, 112 Nev. at 708, 918 P.2d at 324.

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

⁶We 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.

cc: Hon. Jackie Glass, District Judge
James William Otterness
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk