

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEBENION J. FREEMAN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 50725

**FILED**

APR 04 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; Michelle Leavitt, Judge.

On March 1, 2005, the district court convicted appellant, pursuant to a guilty plea, of one count of burglary while in possession of a firearm and one count of robbery with the use of a deadly weapon. The district court sentenced appellant to serve a term of 48 to 120 months for the burglary count and two consecutive terms of 48 to 120 months for the robbery count. The latter terms were imposed to run concurrent with the former. No direct appeal was taken.

On November 13, 2007, appellant filed a proper person motion for sentence modification in the district court. The State opposed the motion. On December 12, 2007, the district court denied appellant's motion. This appeal followed.

In his motion, appellant claimed that his sentence was based upon incomplete facts that were prematurely presented. Appellant further claimed that the district court should not have imposed the deadly weapon enhancement because the deadly weapon element was not presented to or decided by a jury. Appellant also claimed that the deadly weapon enhancement violated Double Jeopardy. Finally, appellant asserted that he was young when the crime was committed and was remorseful.

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

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 mistake of fact that worked to his extreme detriment. Appellant's claims relating to the deadly weapon enhancement fell outside the scope of claims permissible in a motion for sentence modification. Therefore, we affirm the order of the district court.

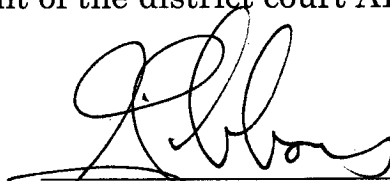
---

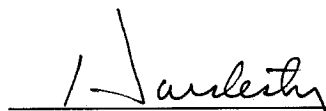
<sup>1</sup>Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

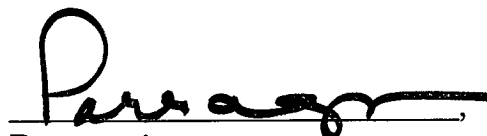
<sup>2</sup>Id. at 708-09 n.2, 918 P.2d at 325 n.2.

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>3</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Michelle Leavitt, District Judge  
DeBenion J. Freeman  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk

---

<sup>3</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).