IN THE SUPREME COURT OF THE STATE OF NEVADA

VICTOR MICHAEL FLORES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50947

FILED

MAY 20 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; Jennifer Togliatti, Judge.

On August 4, 2005, the district court convicted appellant, pursuant to a guilty plea, of one count of robbery with the use of a deadly weapon. The district court sentenced appellant to serve two consecutive terms of 26 to 120 months in the Nevada State Prison. No direct appeal was taken.

On December 14, 2007, appellant filed a proper person motion for sentence modification in the district court. On January 7, 2008, the district court denied appellant's motion. This appeal followed.

In his motion, appellant claimed that the district court should modify his consecutive terms to concurrent terms because he was 16 at the time of the offense. Appellant further noted that he had participated in the structured living program in the prison.

08-12643

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 the motion. Appellant's claims fell outside the very narrow scope of claims permissible in a motion for sentence modification. Appellant failed to demonstrate that the district court relied upon a mistake about his criminal record that worked to his extreme detriment. The deadly weapon enhancement was required to run consecutively to the primary offense.[3] While appellant's prison programming is admirable, it may not be used to modify a sentence that appellant has already begun to serve. Therefore, we affirm the order of the district court on appeal.

Having reviewed the record on appeal and for the reasons set forth above, we conclude that appellant is not entitled to relief and that

---

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

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

[3]See 1995 Nev. Stat., ch. 455, § 1, at 1431 (NRS 193.165(1)).

briefing and oral argument are unwarranted.[4] Accordingly, we ORDER the judgment of the district court AFFIRMED.

_____, J.
Hardesty

_____, J.
Parraguirre

_____, J.
Douglas

cc: Hon. Jennifer Togliatti, District Judge
Victor Michael Flores
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

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