

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER L. CYR,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 52182

**FILED**

DEC 05 2008

TRACIE A. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant Christopher Cyr's "motion requesting resentencing." Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge.

On December 17, 2002, the district court convicted appellant, pursuant to a guilty plea, of attempted murder with the use of a deadly weapon. The district court sentenced appellant to serve two consecutive terms of eight to twenty years in the Nevada State Prison. This court dismissed appellant's untimely direct appeal for lack of jurisdiction.<sup>1</sup> Appellant unsuccessfully sought post-conviction relief by way of a post-conviction petition for a writ of habeas corpus and a motion to correct an illegal sentence.<sup>2</sup>

---

<sup>1</sup>Cyr v. State, Docket No. 41003 (Order Dismissing Appeal, April 9, 2003).

<sup>2</sup>Cyr v. State, Docket No. 43201 (Order of Affirmance, October 7, 2004); Cyr v. State, Docket No. 47774 (Order Dismissing Appeal, November 7, 2006).

On May 28, 2008, appellant filed a proper person “motion requesting resentencing” in the district court. The State opposed the motion. On August 21, 2008, the district court denied appellant’s motion. This appeal followed.

In his motion, appellant claimed that he should be resentenced pursuant to the 2007 amendments to NRS 193.165, which provided that a defendant who uses a deadly weapon in the commission of a crime shall be punished by an additional consecutive term of imprisonment between one and twenty years.<sup>3</sup> Prior to the 2007 amendments, the deadly weapon enhancement contained in NRS 193.165 imposed a mandatory consecutive term equal to the term of imprisonment for the underlying crime.

“[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>4</sup> A motion to modify a sentence that raises issues outside the very narrow scope of issues permissible may be “summarily denied.”<sup>5</sup>

In light of the relief sought, we construe appellant’s motion as a motion to modify a sentence. Our review of the record on appeal reveals that appellant’s claims fall outside the narrow scope of claims permissible in a motion to modify a sentence. Appellant points to no mistaken assumptions about his record which worked to his extreme detriment. As

---

<sup>3</sup>2007 Nev. Stat., ch. 525, § 13, at 3188.

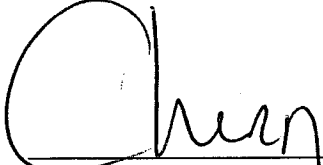
<sup>4</sup>Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).


<sup>5</sup>Id. at 708-09 n.2, 918 P.2d at 325 n.2.


a separate and independent ground to deny relief, appellant would not be entitled to a modification of his sentence pursuant to the new terms of NRS 193.165 because the 2007 amendments do not apply retroactively.<sup>6</sup>

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>7</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Cherry

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

  
\_\_\_\_\_, J.  
Saitta

cc: Hon. Stewart L. Bell, District Judge  
Christopher L. Cyr  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk

---

<sup>6</sup>State v. Dist. Ct. (Pullin), 124 Nev. \_\_\_\_, 188 P.3d 1079, 1084 (2008) (concluding that the amended provisions of NRS 193.165 do not apply retroactively).

<sup>7</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).