

IN THE SUPREME COURT OF THE STATE OF NEVADA

KATHERINE PERRY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52378

FILED

JUL 31 2009

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

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant Katherine Perry's motion to modify her sentence. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

On October 3, 2007, Perry was convicted, pursuant to a guilty plea, of one count of obtaining and using the personal identification information of another. The district court sentenced Perry to serve a prison term of 24-120 months. Perry did not pursue a direct appeal from the judgment of conviction and sentence.

On July 23, 2008, Perry filed a proper person motion to modify her sentence. The State opposed the motion. The district court did not conduct a hearing or appoint counsel to represent Perry and, on August 23, 2008, entered an order denying her motion. This timely appeal followed.

Perry, with the assistance of counsel, contends that the district court erred by denying her motion to modify her sentence. Perry claims that the presentence investigation report prepared by the Division of Parole and Probation incorrectly listed prior convictions for grand theft

vehicle and possession of a controlled substance and that the district court relied on this information to her detriment at sentencing.¹ We disagree.

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

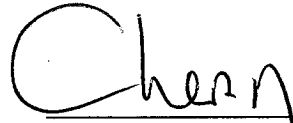
In this case, Perry has failed to demonstrate that the district court improperly relied, to her extreme detriment, on alleged errors in the PSI when determining her sentence. The PSI listed grand theft vehicle and possession of a controlled substance as offenses committed by Perry “for which no disposition is noted, prosecution was not pursued or charges were dismissed.” Perry claims she did not object because, despite her assertion to the contrary at the sentencing hearing, she did not read the entire PSI until after she was sentenced. In denying the motion, however, the same district court judge that sentenced Perry expressly stated, “the mistakes in the PSI did not work to the Defendant’s detriment.” Perry does not challenge any other aspect of her extensive criminal history as detailed in the PSI, including multiple misdemeanor and gross misdemeanor convictions, one felony conviction for grand larceny, multiple arrests without disposition, several failures to appear, and failed attempts at community supervision. Finally, we note that in sentencing Perry, the district court departed downward from the sentencing recommendation


¹In her motion below, Perry claimed that the PSI incorrectly stated that she was either arrested or cited for grand theft vehicle and possession of a controlled substance, and not, as she states on appeal, that it listed them as convictions.


provided by the Division of Parole and Probation. Therefore, we conclude that the district court did not err by denying Perry's motion.

Having considered Perry's contention and concluded that it is without merit, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Legal Resource Group
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk