IN THE SUPREME COURT OF THE STATE OF NEVADA

KIANA JACOBS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52866

FILED

JUL 07 2009

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; James M. Bixler, Judge.

On March 1, 2006, the district court convicted appellant, pursuant to a guilty plea, of one count of voluntary manslaughter with the use of a deadly weapon. The district court sentenced appellant to serve two consecutive terms of 48 to 120 months in the Nevada State Prison. No direct appeal was taken. Appellant unsuccessfully sought relief from her conviction by way of a post-conviction petition for a writ of habeas corpus, a motion to correct an illegal sentence, and a motion for reduction of sentence. Jacobs v. State, Docket No. 48823 (Order of Affirmance, August 14, 2007) (appeal from denial of habeas corpus petition).[1]

[1]Appellant did not file an appeal from the denial of her motion to correct an illegal sentence and motion for reduction of sentence.

On October 6, 2008, appellant filed a proper person motion for sentence modification in the district court. On January 28, 2009, the district court denied appellant's motion. This appeal followed.

In her motion, appellant claimed that the presentence investigation report contained material errors of fact. Specifically, appellant claimed that the presentence investigation report falsely stated that she was a member of a gang and the gang unit last had contact with her in 2005. Appellant claimed that the individual who interviewed her for the Department of Parole and Probation was biased and falsely stated that she was not remorseful and acted like the offense was a joke and taunted the victim's mother. Finally, appellant claimed that the deadly weapon enhancement violated double jeopardy.

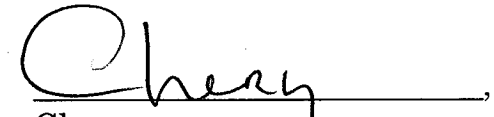
A motion to modify a sentence "is limited in scope to sentences based on mistaken assumptions about a defendant's criminal record which work to the defendant's extreme detriment." Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). A motion to modify a sentence that raises issues outside the very narrow scope of issues permissible may be summarily denied. Id. at 708-09 n.2, 918 P.2d at 325 n.2.

Our review of the record on appeal reveals that the district court did not err in denying the motion. Appellant failed to demonstrate that the statements relating to gang membership were false or that the district court relied on such statements in sentencing appellant. The statements relating to appellant treating the matter as a joke and her lack of remorse were statements made by the victim's mother to the Department and to the district court during the sentencing hearing. Appellant's claims challenging the tenor of her interview and the deadly

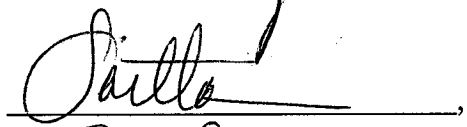
weapon enhancement fell outside the scope of claims permissible. Therefore, we affirm the order of the district court denying the motion.

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. See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975). Accordingly, we

ORDER the judgment of the district court AFFIRMED.[2]



_____, J.
Cherry



_____, J.
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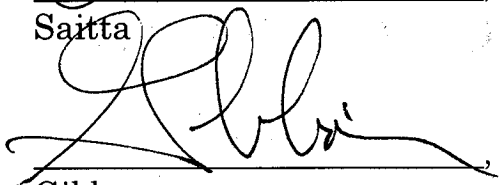

_____, J.
Gibbons

cc: Hon. James M. Bixler, District Judge
Kiana Jacobs
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

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[2]We 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.