

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID TAYLOR SMITH,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 53104

**FILED**

**FEB 04 2010**

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 appellant's October 6, 2008, motion for modification of sentence.<sup>1</sup> Second Judicial District Court, Washoe County; Jerome Polaha, Judge.

Appellant failed to demonstrate that the district court relied on any errors regarding his criminal history to his extreme detriment. See Edwards v. State, 112 Nev. 704, 707, 918 P.2d 321, 324 (1996). Appellant also failed to provide any evidence in support of his argument that one conviction had been dismissed or that incarceration and conviction tallies were in error.<sup>2</sup> See Hargrove v. State, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984) (holding that bare or naked allegations are insufficient to grant


---


<sup>1</sup>This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).


<sup>2</sup>The accuracy of the tallies depends on the accuracy of the detailed history and the method of tallying, matters which are not in the record.

relief); State v. District Court, 100 Nev. 90, 102, 677 P.2d 1044, 1052 (1984) (“On appeal, every presumption is in favor of the propriety of the trial court’s action in the absence of a showing of error.”). For the foregoing reasons, we conclude the district court did not err in denying appellant’s motion. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Jerome Polaha, District Judge  
David Taylor Smith  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk