

IN THE SUPREME COURT OF THE STATE OF NEVADA

CRISS LONNIE ROGERS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 53593

**FILED**

APR 08 2010

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

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying a motion to modify or correct an illegal sentence.<sup>1</sup> Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Appellant's first claim on appeal—that he was improperly sentenced as a habitual felon because his three prior convictions were contained in one judgment of conviction—is the exact same claim that was rejected in appellant's direct appeal. See Rogers v. State, Docket No. 42895 (Order of Affirmance, April 4, 2005). The doctrine of law of the case precludes further litigation of this issue. See Hall v. State, 91 Nev. 314, 315-16, 535 P.2d 797, 798-99 (1975).

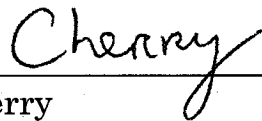
Appellant's second claim—that being sentenced as a habitual felon was unconstitutional and violated Apprendi v. New Jersey, 530 U.S. 466 (2000)—is outside the scope of a motion to modify or a motion to correct an illegal sentence. See Edwards v. State, 112 Nev. 704, 708, 918 P.2d

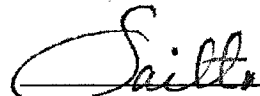
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<sup>1</sup>Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.

321, 324 (1996). This claim did not allege that the district court sentenced appellant based on mistaken assumptions about appellant's criminal record which worked to his extreme detriment. Id. Appellant's sentence was facially legal, and there is no indication that the district court was not a competent court of jurisdiction. Id.; see also 2003 Nev. Stat., ch. 36, § 2, at 388. Therefore, the district court did not err in denying this motion. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Connie J. Steinheimer, District Judge  
Karla K. Butko  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk