

IN THE SUPREME COURT OF THE STATE OF NEVADA

TROY STEPHEN JOHNSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55619

FILED

SEP 09 2010

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 a motion for sentence modification. Eighth Judicial District Court, Clark County; David B. Barker, Judge.

Appellant Troy Stephen Johnson claims that the district court erred by denying his claims that (1) the prosecutor committed misconduct by misinforming the judge at his original sentencing about the amount of drugs found in his blood; (2) at his resentencing, the prosecutor and court “failed to appreciate the difference between a drug and its metabolite;” and (3) he was entitled to a new sentencing hearing due to possible prejudice and incompetence on the part of the resentencing judge. The district court correctly found that Johnson’s sentence was lawful, the issues raised were barred by the law of the case doctrine, see Hall v. State, 91 Nev. 314, 535 P.2d 797 (1975), and there was no factual basis to modify the sentence, see Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996) (“a motion to modify 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"). We therefore conclude that the district court did not err in denying the motion, and we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. David B. Barker, District Judge
Potter Law Offices
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk