

IN THE SUPREME COURT OF THE STATE OF NEVADA

YOEL GUERRA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 56365

**FILED**

NOV 01 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 a motion for sentence modification.<sup>1</sup> Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

In his motion filed on May 17, 2010, appellant claimed that the 2007 amendment to NRS 193.165, reducing the term of a deadly weapon enhancement from an equal and consecutive term to a term of not less than 1 year or more than 20 years, applied to his sentence. See 2007 Nev. Stat., ch. 525, § 13, at 3188-89. Appellant requested that his deadly weapon enhancement term be reduced from a term of 28 to 72 months to a term of 12 to 30 months.

Based upon our review of the record on appeal, we conclude that the district court did not err in denying the motion. Appellant failed to demonstrate that the district court relied upon a mistaken assumption

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<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 Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

about appellant's criminal record that worked to his extreme detriment. Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Moreover, as a separate and independent ground to deny relief, appellant's claim lacked merit because the 2007 amendment to NRS 193.165 does not apply retroactively. State v. Dist. Ct. (Pullin), 124 Nev. \_\_\_, 188 P.3d 1079 (2008). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Cherry, J.  
Cherry

Saitta, J.  
Saitta

Gibbons, J.  
Gibbons

cc: Hon. Stefany Miley, District Judge  
Yoel Guerra  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk