

IN THE SUPREME COURT OF THE STATE OF NEVADA

LESHON LEROY JORDAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56914

FILED

MAY 10 2011


ORDER OF AFFIRMANCE

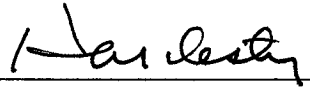
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Tracie K. Lindeman*
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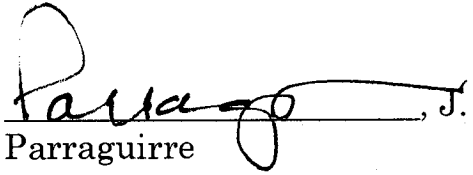
This is an appeal from an order of the district court denying appellant Leshon Leroy Jordan's motion to modify sentence. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

On appeal, Jordan claims that the district court abused its discretion by sentencing him to prison because the prison system's "deliberate indifference" to his known life-threatening medical condition constitutes cruel and unusual punishment. Jordan did not present this claim in his motion to modify sentence and he waived it by failing to file a timely notice of appeal after the entry of the judgment of conviction. See NRAP 4(b); Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994) ("claims that are appropriate for direct appeal must be pursued on direct appeal, or they will be considered waived in subsequent proceedings"), overruled on other grounds by Thomas v. State, 115 Nev. 148, 150, 979 P.2d 222, 223-24 (1999). Moreover, even if Jordan had raised this claim, it would fail because it falls outside the narrow scope of claims permissible in a motion to modify sentence. See Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Jordan does not challenge the denial of his motion to modify sentence and we conclude that he has failed to demonstrate that the district court abused its discretion by denying his motion. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Valerie Adair, District Judge
Michael H. Schwarz
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk