

IN THE SUPREME COURT OF THE STATE OF NEVADA

RONALD KWAME GAINES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56948

FILED

JAN 24 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

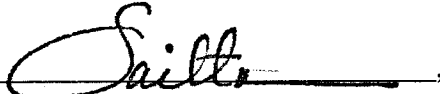
This is a proper person appeal from an order of the district court denying a motion to correct or modify sentence.¹ Eighth Judicial District Court, Clark County; Doug Smith, Judge.

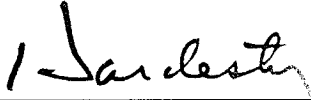
In his motion filed on September 3, 2010, appellant claimed that his sentence was illegal because he was not first sentenced on the substantive offense of attempted robbery before he was adjudicated and sentenced as a habitual criminal and the criminal information failed to list a count of habitual criminality. Appellant further claimed that his sentence should be modified because of the district court's failure to sentence him on the substantive offense first. Appellant failed to demonstrate that his sentence was facially illegal and that the district court lacked jurisdiction. See Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Appellant further failed to demonstrate that the

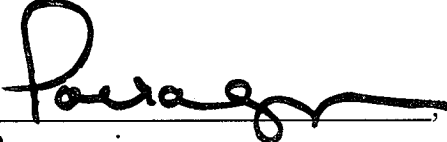
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

district court relied on mistaken assumptions regarding his criminal record that worked to his extreme detriment. See id. We note that the State filed a timely notice of intention to seek habitual criminal adjudication. We therefore conclude that the district court did not err in denying appellant's motion. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 J.
Saitta

 J.
Hardesty

 J.
Parraguirre

cc: Hon. Doug Smith, District Judge
Ronald Kwame Gaines
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk