

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL RAY HUGHES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57073

FILED

MAY 09 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order denying a document labeled “motion to correct illegal sentence; motion to appoint counsel; request for ruling on motion to withdraw plea and evidentiary hearing.”¹ Eighth Judicial District Court, Clark County; James M. Bixler, Judge.

In his motion filed on July 20, 2010, appellant complained that his sentence was based on material misstatements of fact at the sentencing hearing and mistakes in the presentence investigation report. Appellant also raised double jeopardy arguments involving other district


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).

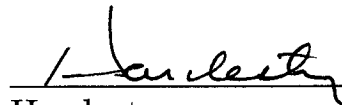
court cases and argued his plea was not valid. Appellant failed to demonstrate that his sentence was facially illegal or that the district court lacked jurisdiction. Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). To the extent that appellant's motion may be construed as a motion to modify sentence, appellant failed to demonstrate that the district court relied on mistaken assumptions regarding his criminal record that worked to his extreme detriment. Id. Appellant's double jeopardy claims and challenges to the validity of the guilty plea fell outside the narrow scope of claims permissible in a motion to correct or modify sentence. We therefore conclude that the district court did not err in denying appellant's motion.² Accordingly, we

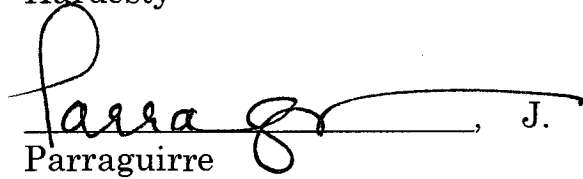
²We conclude that the district court did not abuse its discretion in declining to appoint counsel or conduct an evidentiary hearing.

It is unclear from the record before this court whether the district court ruled on the December 26, 2008 motion to withdraw guilty plea or whether the district court considered the request for a ruling on the motion in the proceedings below. Minutes for a hearing conducted on January 13, 2009 indicate that consideration on the motion to withdraw plea was stayed because of pending appeals in this court. Regardless, appellant improperly sought a request for a ruling on the motion to withdraw a guilty plea in his motion to correct sentence. Appellant should file a clear and succinct motion requesting information regarding a ruling or requesting a ruling on the 2008 motion to withdraw a guilty plea in the district court.

ORDER the judgment of the district court AFFIRMED.³


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. James M. Bixler, District Judge
Michael Ray Hughes
Attorney General/Carson City
Attorney General/Las Vegas
Clark County District Attorney
Eighth District Court Clerk

³We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.