

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALBERT CARLOS CUNNINGHAM,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58083

FILED

OCT 07 2011

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 to modify sentence.¹ Eighth Judicial District Court, Clark County; Doug Smith, Judge.

In his motion filed on February 15, 2011, appellant claimed that the district court erred in imposing a sentence for the crime of first-degree murder when appellant believed his conduct amounted only to voluntary manslaughter. Appellant claimed that the presentence investigation report should not have described his conduct as first-degree murder. Appellant failed to demonstrate that the district court relied on mistaken assumptions regarding his criminal record that worked to his extreme detriment. See Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Notably, appellant entered a guilty plea to one count of

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).

first-degree murder with the use of a deadly weapon and two counts of attempted murder with the use of a deadly weapon. 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.²

Cherry, J.
Cherry

Gibbons, J.
Gibbons

Pickering, J.
Pickering

cc: Hon. Doug Smith, District Judge
Albert Carlos Cunningham
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²We 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.