

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARTIN ANDRADE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 58207

**FILED**

SEP 15 2011

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *Tracie K. Lindeman*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a motion to vacate and modify sentence.<sup>1</sup> Eighth Judicial District Court, Clark County; Jerome T. Tao, Judge.

In his motion filed on March 28, 2011, appellant claimed that the presentence report incorrectly stated that the offense involved a gang shooting. Appellant further claimed that the district court relied on mistakes in the section describing the offense in the presentence investigation report, mistakes which made it seem like he had the intent to kill when he shot into an occupied vehicle. Appellant appeared to claim that despite the fact that he entered a guilty plea to attempted murder with a deadly weapon, the district court should have only convicted and sentenced him for the crime of assault with a deadly weapon. Appellant failed to demonstrate that the district court relied on mistaken


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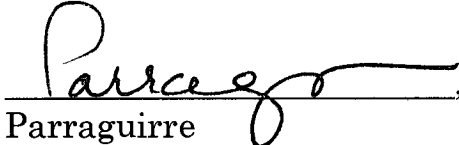
<sup>1</sup>This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

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). Appellant cannot challenge the validity of his guilty plea in a motion to modify sentence. 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.<sup>2</sup>

 \_\_\_\_\_, J.  
Douglas

 \_\_\_\_\_, J.  
Hardesty

 \_\_\_\_\_, J.  
Parraguirre

cc: Hon. Jerome T. Tao, District Judge  
Martin Andrade  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>2</sup>We 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.