

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN JAMES MORALES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58607

FILED

DEC 07 2011

TRAGIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Ingersoll*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a motion for modification of sentence.¹ Eighth Judicial District Court, Clark County; David B. Barker, Judge.

In his motion, filed on May 4, 2011, appellant first requested that his minimum sentence for each count be reduced because his overall sentence will otherwise be longer than envisioned by the guilty plea agreement due to which of his sentences are deemed controlling. 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).

Appellant next requested a correction of an alleged clerical error in the judgment of conviction that credited him with 86 days for time

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 Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

served instead of the 826 days he claimed was ordered by the sentencing court. Appellant failed to demonstrate any clerical errors in the judgment of conviction because he failed to demonstrate that the sentencing court awarded him 826 days' credit.² We therefore conclude that the district court did not err in denying this claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Cherry, J.
Cherry

Gibbons, J.
Gibbons

Pickering, J.
Pickering

cc: Hon. David B. Barker, District Judge
Steven James Morales
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²To the extent appellant claimed that the district court did not award him sufficient presentence credits, it is a challenge to the judgment of conviction and must be raised in a post-conviction petition for a writ of habeas corpus filed in the district court in the first instance. NRS 34.724(2)(b); NRS 34.738(1); Griffin v. State, 122 Nev. 737, 137 P.3d 1165 (2006). We express no opinion as to whether petitioner could meet the procedural requirements of NRS chapter 34.