

IN THE SUPREME COURT OF THE STATE OF NEVADA

JIMMY EARL DOWNS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 58877

**FILED**

JAN 12 2012

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *R. Malone*  
DEPUTY CLERK

ORDER OF AFFIRMANCE AND DIRECTING CLERK OF THE  
DISTRICT COURT TO TRANSFER DOCUMENTS

This is a proper person appeal from an order of the district court denying a motion for sentence modification.<sup>1</sup> Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

Preliminarily, we note that it appears that the district court clerk inadvertently filed the motion for modification filed on June 21, 2011, in district court case number C151063, despite the fact that appellant designated district court case number C150891 and the motion dealt with the judgment of conviction arising from district court case number C150891. Thus, we direct the clerk of the district court to transfer

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

the June 21, 2011 motion for modification filed in district court case number C151063 to district court case number C150891. Despite this error in filing, we conclude that relief was properly denied as the motion lacked merit.<sup>2</sup>

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). A challenge to the validity of the habitual criminal adjudication is barred by the doctrine of the law of the case as this court has reviewed and rejected appellant's challenge to the habitual criminal adjudication and trial counsel's representation regarding this issue.<sup>3</sup> See Hall v. State, 91 Nev. 314, 535 P.2d 797 (1975). We note that trial counsel objected to consideration of the judgment of conviction in district court case number C151063, and nothing in the record in the instant case supports the assertion that the district court relied on this judgment of conviction in adjudicating appellant a habitual criminal or that appellant did not otherwise have a sufficient number of qualifying prior judgments

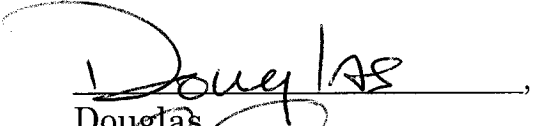
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<sup>2</sup>We note that in opposing the motion in this case, the State reviewed the motion as filed in district court case number C151063.

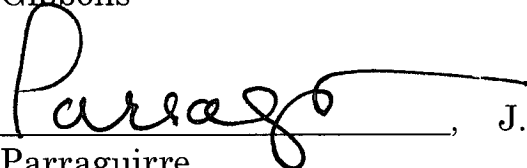
<sup>3</sup>Downs v. State, Docket No. 36503 (Order of Affirmance, July 12, 2001); Downs v. State, Docket No. 39757 (Order of Affirmance, April 10, 2003).

of conviction. 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>4</sup>

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

  
\_\_\_\_\_, J.  
Gibbons

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

cc: Hon. Jessie Elizabeth Walsh, District Judge  
Jimmy Earl Downs  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>4</sup>We have considered all proper person documents filed or received in this matter. We conclude that appellant is only entitled to the relief described herein—the filing of the motion in the proper case.