

IN THE SUPREME COURT OF THE STATE OF NEVADA

JONATHAN DAVID WHITEHEAD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 64498

FILED

FEB 12 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
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 Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.

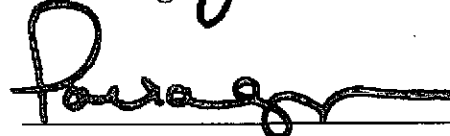
In his motion filed on October 29, 2013, appellant claimed that the district court relied on the State's assertion at sentencing that appellant had been charged with accessory to attempted murder. Appellant claimed that he received the presentence investigation report after sentencing and the report showed that the accessory-to-attempted-murder charge had been dismissed. Appellant failed to demonstrate that his sentence was based on a mistaken assumption about his criminal record which worked to his extreme detriment. *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Our review of the record shows that the State's assertion, which was made in response to defense


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).

counsel's statement that appellant had no criminal record, was correct. Therefore, as appellant did not demonstrate a mistaken assumption, we conclude that the district court did not err in denying his motion. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Pickering


_____, J.
Parraguirre


_____, J.
Saitta

cc: Hon. Robert W. Lane, District Judge
Jonathan David Whitehead
Nye County District Attorney
Attorney General/Carson City
Nye County Clerk