

IN THE SUPREME COURT OF THE STATE OF NEVADA

KEVIN RAY HOLMES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 65490

FILED

OCT 16 2014

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 or correct an illegal sentence and motion for new trial.¹ Eighth Judicial District Court, Clark County; Michael Villani, Judge.


In his motion filed on March 10, 2014, appellant claimed that the district court erred in sentencing him for first-degree murder because he was convicted of open murder. Appellant claims this is a mistaken assumption regarding his criminal history. Further, he claims that his judgment of conviction erroneously states that he pleaded guilty to first-degree murder.² 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

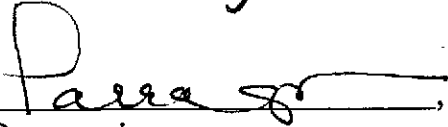
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. *See Lockett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).


²We note that appellant's judgment of conviction correctly states that he was convicted pursuant to a jury verdict of first-degree murder.

P.2d 321, 324 (1996). Further, appellant failed to demonstrate that his sentence was facially illegal or that the district court lacked jurisdiction. *See id.* As to appellant's motion for new trial, his motion was untimely and he failed to demonstrate that there was new evidence that warranted a new trial. *See* NRS 176.515(3), (4). Therefore, we conclude that the district court did not err in denying appellant's motion, and we

ORDER the judgment of the district court AFFIRMED.³


_____, J.
Pickering


_____, J.
Parraguirre


_____, J.
Saitta

cc: Hon. Michael Villani, District Judge
Kevin Ray Holmes
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

³We 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.