

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ADAM WYNN TINGLEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 66582

FILED

FEB 04 2015

TRACY K. LINDSEMAN
CLERK OF APPEALS COURT
BY: *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order denying a motion to modify sentence. Second Judicial District Court, Washoe County; Jerome Polaha, Judge.


On appeal from the denial of his motion to modify sentence filed on December 27, 2013, and supplemental motion to modify filed on August 27, 2014, appellant claims that the district court erred by denying his motion without holding an evidentiary hearing regarding whether the errors in the presentence investigation report (PSI) would have made a difference at sentencing. 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). In fact, appellant conceded below that the errors in the PSI did not work to his extreme detriment. Even if there were errors in the PSI, appellant still had a lengthy criminal history and he received a fairly lenient sentence of 16 to 48 months in prison. Therefore, appellant was not entitled to an evidentiary hearing. *See Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984) (concluding that to warrant an evidentiary hearing, claims must be


supported by specific factual allegations that are not belied by the record and, if true, would entitle him to relief).

To the extent that appellant claims that the district court should have amended the judgment of conviction to correct the errors in the PSI, this claim is not properly before this court. This claim was raised for the first time in a motion for reconsideration filed after the district court denied appellant's motion for modification. Accordingly, we decline to consider it on appeal.¹

We conclude that the district court did not err in denying appellant's motion, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

¹We note that no statute or court rule authorizes an appeal from an order denying a motion for reconsideration. *See Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990).

cc: Hon. Jerome Polaha, District Judge
Mary Lou Wilson
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk