

IN THE SUPREME COURT OF THE STATE OF NEVADA

SYLVESTER JOHNSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 36150

FILED

MAR 25 2002

JANEITE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's motion for modification of his sentence.

On November 5, 1999, the district court convicted appellant, pursuant to a guilty plea, of theft. The district court sentenced appellant to serve a term of 12 to 96 months in the Nevada State Prison. Appellant did not file a direct appeal.

On March 31, 2001, appellant filed a proper person motion for modification of his sentence in the district court. The State opposed the motion. On April 14, 2001, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended that his sentence should be modified because, at sentencing, the district court failed to fulfill its alleged promise to reduce appellant's sentence from a term of 1 to 8 years to a term of 1 to 4 years. Appellant also contended that he agreed to a plea agreement that included a sentence of 12 to 48 months, but he was sentenced to a term of 12 to 96 months.


A motion to modify a sentence “is limited in scope to sentences based on mistaken assumptions about a defendant’s criminal record which work to the defendant’s extreme detriment.”¹

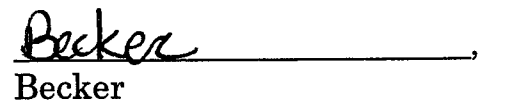
Our review of the record on appeal reveals that the district court did not err in denying appellant’s motion. The issues raised by appellant fell outside the scope of claims cognizable in a motion to modify a sentence.² There is no indication in the record that the district court relied on mistaken assumptions about appellant’s criminal record. Moreover, appellant’s claims are belied by the record on appeal.³

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.⁴ Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 J.
Shearing

 J.
Rose

 J.
Becker

¹See Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

²See id.

³See Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984).

⁴See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

cc: Hon. Jeffrey D. Sobel, District Judge
Attorney General/Carson City
Clark County District Attorney
Sylvester Johnson
Clark County Clerk