

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DEANGELO MARON MALONE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 70011

FILED

SEP 21 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

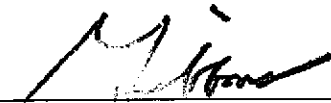
This is an appeal from an order of the district court denying a motion to modify or correct an illegal sentence.¹ Eighth Judicial District Court, Clark County; Kerry Louise Earley, Judge.

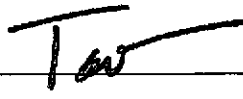
In his motion filed on January 25, 2016, appellant Deangelo Malone claimed his sentence should be modified based on A.B. 267. *See* 2015 Nev. Stat. ch. 152, §§ 3(1)(b), 5(2), at 618-19; NRS 176.025. Malone failed to demonstrate the district court relied on mistaken assumptions regarding his criminal record that worked to his extreme detriment. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Malone also failed to demonstrate that his sentence was facially illegal or the district court lacked jurisdiction. *See id.* Contrary to Malone's argument, the portion of A.B. 267 that states a person under the age of 18 cannot receive a sentence of life without the possibility of parole only applies prospectively. *See* 2015 Nev. Stat. ch. 152, § 5(1), at 618-19 (NRS 176.025 only applies to persons whose committed their offense or were sentenced

¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

for their offense after October 1, 2015). While Malone's sentence is not illegal, we note he will be eligible for parole on his first sentence pursuant to NRS 213.12135(1)(b) after serving 20 years in prison. *See Malone v. State*, Docket No. 66874 (Order Dismissing Appeal as Moot, December 20, 2015); 2015 Nev. Stat. ch. 152, § 5(2) (parole eligibility statute applies retroactively to offenses committed prior to October 1, 2015). Therefore, we conclude the district court did not err in denying Malone's motion, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Kerry Louise Earley, District Judge
Deangelo Maron Malone
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk