

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID EDWARD EUGENO ABARA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 71242

**FILED**

AUG 16 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

David Edward Eugeno Abara appeals from an order of the district court denying the motion to correct an illegal sentence he filed on June 6, 2016.<sup>1</sup> Second Judicial District Court, Washoe County; Elliott A. Sattler, Judge.

In his motion, Abara claimed the district court erred by denying his claim the district court, at sentencing, relied on mistaken assumptions regarding his criminal history that worked to his extreme detriment. Specifically, he claimed two of his convictions from California were actually misdemeanors and two of his other convictions from California stemmed from crimes committed in the same transaction. Therefore, he argues he did not have the requisite number of felonies to be sentenced under the large habitual criminal statute. *See* NRS 207.010().

Abara 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

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

321, 324 (1996). The district court found Abara failed to demonstrate his convictions were actually misdemeanors and, even if the convictions were misdemeanors, they would have been felonies in Nevada. Substantial evidence supports the findings of the district court. See NRS 207.010(1)(b).

We also conclude Abara failed to demonstrate the two felony convictions stemming from two separate judgments of convictions were from the same "transaction" and should have been considered as one prior conviction. Abara also failed to demonstrate that his sentence was facially illegal or the district court lacked jurisdiction. See *Edwards*, 112 Nev. at 708, 918 P.2d at 324. Therefore, we conclude the district court did not err in denying Abara's motion, and we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

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<sup>2</sup>Based on the claims raised and the nature of relief sought, we conclude the district court did not abuse its discretion by construing the motion to also be a motion to modify sentence. See *id.*

cc: Hon. Elliott A. Sattler, District Judge  
David Edward Eugeno Abara  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk