

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JEREMY MALINS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 73728

FILED

MAY 15 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Jeremy Malins appeals from an order of the district court denying a motion for modification of sentence.¹ Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.

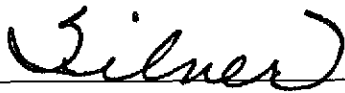
Malins argues the district court erred by denying his June 6, 2017, motion. In his motion, Malins claimed the presentence investigation report (PSI) improperly contained information regarding his juvenile record, improperly mentioned arrests when he was not ultimately charged with crimes related to those incidents, and incorrectly stated he had two parole revocations when he had actually only had one.

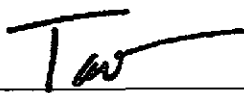
We conclude Malins is not entitled to relief. The record before this court demonstrates the alleged errors in the PSI were not relied upon at the sentencing hearing. Rather, the parties noted Malins was eligible for the habitual criminal enhancement and he faced a mandatory prison sentence because he had previously committed a burglary. The sentencing court stated Malins continually got into trouble due to his attitude and


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

hoped Malins could learn to correct his behavior while in prison. Notably, the sentencing court did not impose the maximum possible sentence. Given the record before this court, Malins failed to demonstrate the sentencing 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). Therefore, we conclude the district court did not err in denying the motion.² Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Robert W. Lane, District Judge
Jeremy Malins
Attorney General/Carson City
Nye County District Attorney
Nye County Clerk

²To the extent Malins asserted he was entitled to relief because he was not given sufficient time to review the PSI prior to the sentencing hearing or the sentencing court failed to ask Malins whether he had read the PSI and noticed any inaccuracies, these claims were not within the scope of a motion for modification of sentence. *See id.* Therefore, without considering the merits of these claims, we conclude the district court properly denied relief.