

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVEN SAMUEL BRAUNSTEIN  
A/K/A STEVEN SAMUEL JALBERT,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 73170

FILED

JUN 13 2018

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

ORDER OF AFFIRMANCE

Steven Samuel Braunstein appeals from a district court order denying a motion to modify a sentence filed on May 2, 2017.<sup>1</sup> Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

Braunstein appears to claim the district court lost subject matter jurisdiction over his case when it vacated the restitution awarded in his judgment of conviction because the absence of a restitution award meant he was no longer guilty of a felony and he should have been sentenced for a misdemeanor.<sup>2</sup>

“[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.” *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). The district court may summarily deny

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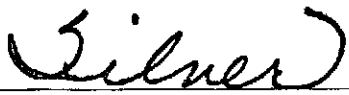
<sup>1</sup>This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

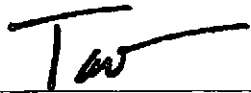
<sup>2</sup>Braunstein raised a very similar claim in his motion to correct an illegal sentence. *See Braunstein v. State*, Docket No. 70392 (Order of Affirmance, February 23, 2017).

a motion to modify sentence if the motion raises issues that fall outside of the very narrow scope of issues permissible in such motions. *Id.* at 708 n.2, 918 P.2d at 325 n.2.

We conclude the district court did not err by denying Braunstein's motion because he failed to demonstrate the district court relied upon mistaken assumptions about his criminal record and his challenge to the validity of his sentence fell outside the narrow scope of claims that may be raised in a motion to modify sentence. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Stefany Miley, District Judge  
Steven Samuel Braunstein  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk