

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MANUEL D. ORELLANA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 74595

**FILED**

JUL 20 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Manuel D. Orellana appeals from an order of the district court denying a motion to modify sentence filed on June 23, 2017.<sup>1</sup> Eighth Judicial District Court, Clark County; Michael Villani, Judge.

In his motion, Orellana claimed the district court should modify his sentence because the district court relied on mistaken assumptions regarding his criminal history that worked to his extreme detriment. Specifically, he claimed he was later acquitted of two of the four lewdness with a child under the age of 14 counts because they were redundant, and if the district court had known that at sentencing, he may have received concurrent time between the remaining counts.

Orellana 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). At sentencing, the district court was aware of the facts of the crimes and chose to run the two counts that were separate incidences

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

18-901560

consecutive to each other while running the two counts that were ultimately found to be redundant concurrent to the other counts. Therefore, it appears the district court structured Orellana's sentence to punish the separate incidences and not separately punish the conduct that was found to be redundant. Therefore, Orellana failed to demonstrate any mistake regarding his criminal history worked to his extreme detriment because his sentence continues to reflect this structure. Accordingly, we conclude the district court did not err by denying Orellana's motion, and we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Michael Villani, District Judge  
Manuel D. Orellana  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk