

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CARY JERARD PICKETT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 75042

FILED

AUG 24 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Cary Jerard Pickett appeals from a district court order denying a motion to modify sentence filed on December 6, 2017.¹ Eighth Judicial District Court, Clark County; William D. Kephart, Judge.

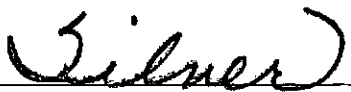
Pickett claimed that his sentence should be modified because he did not understand the habitual criminal adjudication process, did not know the district court had sole discretion over the adjudication, and was unaware that mitigating evidence could be presented at sentencing.

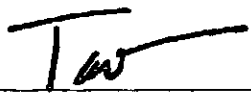
“[A] motion to modify a sentence is limited in scope to sentences based on mistaken assumptions about a defendant’s criminal record which work to the defendant’s extreme detriment.” *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). The district court may summarily deny a motion to modify 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.

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

We conclude the district court did not err by denying Pickett's motion because he failed to demonstrate the district court relied upon mistaken assumptions about his criminal record, and his claims regarding his unawareness of the habitual criminal adjudication and sentencing process fall 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. William D. Kephart, District Judge
Cary Jerard Pickett
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk