

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARVIN YARRELL, A/K/A MARVIN
JOHNSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74979

FILED

SEP 21 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Marvin Yarrell appeals from an order of the district court denying a motion to modify sentence.¹ Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

Yarrell argues the district court erred by denying his January 3, 2018, motion. In his motion, Yarrell claimed the sentencing court did not understand that two out of his six prior felonies arose out of the same transaction and, therefore, should not have been considered separate convictions for purposes of adjudication as a habitual criminal. Yarrell failed to demonstrate he was entitled to relief. Even excluding the felonies arising out of the same transaction, Yarrell's additional prior felony convictions were sufficient to support Yarrell's sentence under the small habitual criminal enhancement. *See* NRS 207.010(1)(a). Accordingly, Yarrell failed to demonstrate the sentencing court relied on mistaken

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

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 by denying Yarrell's motion. Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Silver


_____, J.
Gibbons

cc: Hon. Elissa F. Cadish, District Judge
Marvin Yarrell
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²The Honorable Jerome T. Tao did not participate in the decision in this matter.