

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANK PATRICK BIRCH, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 76670

FILED

MAR 15 2019

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

ORDER OF AFFIRMANCE

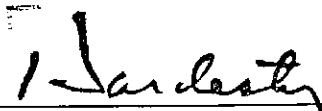
This is a pro se appeal from a district court order denying a postconviction petition for a writ of habeas corpus and a motion to correct or modify sentence.¹ Eighth Judicial District Court, Clark County; Kenneth C. Cory, Judge.

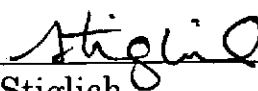
In his petition filed on April 5, 2018, appellant claimed: the district court failed to correct records, did not consider the presentence investigation report, accepted testimony from a mentally “harmed” person, considered the dismissed charges, and was biased against him at sentencing. These claims were outside the scope of claims permissible in a postconviction petition for a writ of habeas corpus challenging the validity of a judgment of conviction based on a guilty plea. See NRS 34.810(1)(a). Further, appellant failed to support these claims with specific facts demonstrating that he was entitled to relief. Therefore, we conclude that the district court did not err in denying the petition.

¹Having considered the pro se brief filed by appellant, we conclude that a response is not necessary. NRAP 46A(c). This appeal therefore has been submitted for decision based on the pro se brief and the record. See NRAP 34(f)(3).

In his motion also filed on April 5, 2018, appellant raised the above claims in addition to arguing that the court had failed to amend the information, did not address the circumstances of the plea or nature of the offense, failed to consider his prior history or the relationship with the victim, imposed a sentence twice that recommended by the Department of Parole and Probation, and that he is actually innocent. We conclude that the district court did not err in denying his motion because appellant failed to demonstrate that the district court relied on mistaken assumptions regarding his criminal record that worked to his extreme detriment or demonstrate that his sentence was facially illegal or that the district court lacked jurisdiction. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Therefore, we conclude that the district court did not err in denying appellant's motion. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Stiglich


_____, J.
Silver

cc: Hon. Kenneth C. Cory, District Judge
Frank Patrick Birch, Jr.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk