

IN THE SUPREME COURT OF THE STATE OF NEVADA

AARON L. HARRIS, SR.,

No. 37032

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

**FILED**

**DEC 14 2001**

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY: *[Signature]*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order denying a motion to modify a sentence.

On September 6, 1990, the district court convicted appellant Aaron L. Harris, Sr., pursuant to a jury verdict, of two counts of sale of a controlled substance, one count of conspiracy to sell a controlled substance, and one count of trafficking in a controlled substance. The district court sentenced Harris to serve two terms of twenty years in prison for the sale counts (counts I & II), a term of three years in prison for the conspiracy count (count III), and a term of thirty years in prison for the trafficking count (count IV). The district court ordered that the sentence for count II be served consecutively to count I, that the sentence for count III be served consecutively to count II, and that the sentence for count IV be served consecutively to count II but concurrently with count III. This court affirmed the judgment of conviction on appeal.<sup>1</sup> The remittitur issued on October 22, 1991.

On October 26, 1996, and January 24, 1997, Harris filed proper person post-conviction petitions for writs of habeas corpus in the district court. The State opposed the petitions. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent Harris or to conduct an evidentiary hearing on either petition. On December 10, 1996 and April 1, 1997, the district court denied the

<sup>1</sup>Harris v. State, Docket No. 21566 (Order Dismissing Appeal, September 30, 1991).

01-21065

petitions as procedurally barred. This court affirmed both orders on appeal.<sup>2</sup>

On October 11, 2000, Harris filed a proper person motion to modify a sentence in the district court. On November 2, 2000, the district court denied the motion. This appeal followed.

In his motion, Harris argued that NRS 453.341 requires that the district court modify his sentences for selling a controlled substance and trafficking in a controlled substance to comport with the 1995 amendments to NRS 453.321 and NRS 453.3385. We conclude that the district court did not err in denying the motion.

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."<sup>3</sup> The claims raised in Harris' motion fall outside of the very narrow scope of a motion to modify a sentence. Accordingly, we conclude that the district court did not err in summarily denying the motion.<sup>4</sup>

Moreover, Harris' claims lack merit. The district court sentenced Harris in compliance with the statutes applicable at the time that Harris committed the charged offenses in 1989 and 1990. At that time, NRS 453.321 provided for a sentence of life or a definite term not less than one year nor more than twenty years for selling a schedule I controlled substance;<sup>5</sup> the district court sentenced Harris to a twenty-year term for each violation of that statute. NRS 453.3385(3) provided for a sentence of life in prison or a definite term of not less than 25 years;<sup>6</sup> the district court sentenced Harris to serve a thirty-year term for the trafficking count. When the legislature amended those sentencing provisions and reduced the statutory penalties in 1995, it clearly stated that the amendments do not apply to offenses committed before July 1,

---

<sup>2</sup>Harris v. State, Docket No. 29790 (Order Dismissing Appeal, May 27, 1999); Harris v. Warden, Docket No. 30318 (Order Dismissing Appeal, May 27, 1999).

<sup>3</sup>Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

<sup>4</sup>See id. at 709 n.2, 918 P.2d at 325 n.2.

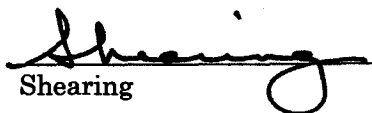
<sup>5</sup>1983 Nev. Stat., ch. 218, § 4, at 511.

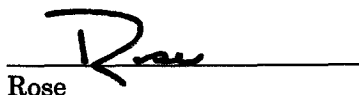
<sup>6</sup>1983 Nev. Stat., ch. 111, § 2, at 287.

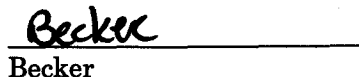
1995.<sup>7</sup> Therefore, Harris' sentences are not unlawful. Moreover, we conclude that the specific statements of legislative intent control over the more general language of NRS 453.341.<sup>8</sup>

Having reviewed the record on appeal and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.<sup>9</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 J.  
Shearing

 J.  
Rose

 J.  
Becker

cc: Hon. Donald M. Mosley, District Judge  
Attorney General/Carson City  
Clark County District Attorney  
Aaron L. Harris, Sr.  
Clark County Clerk

---

<sup>7</sup>1995 Nev. Stat., ch. 443, § 286, at 1282 (amending sentencing provisions in NRS 453.321); 1995 Nev. Stat., ch. 443, § 296, at 1288 (amending sentencing provisions in NRS 453.3385); 1995 Nev. Stat., ch. 443, § 393, at 1340 (providing that amendatory provisions in sections 286 and 296 of chapter 443 do not apply to offenses "which are committed before July 1, 1995").

<sup>8</sup>NRS 453.341(1) states:

Prosecution for any violation of law occurring before January 1, 1972, is not affected or abated by the provisions of NRS 453.011 to 453.552, inclusive. If the offense being prosecuted is similar to one set out in NRS 453.321 to 453.552, inclusive, then the penalties under NRS 453.321 to 453.552, inclusive, apply if they are less than those under prior law.

<sup>9</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).