

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ATIBA MALIK MOORE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 77181-COA

FILED

JUL 30 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY [Signature]
DEPUTY CLERK

ORDER OF AFFIRMANCE

Atiba Malik Moore appeals from an order of the district court denying the motions for modification of sentence filed on August 27, 2018, and September 4, 2018.¹ Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

In his motions, Moore claimed his sentence should be modified because the oral pronouncement of his sentence differed from the written judgment of conviction. Specifically, he claimed the oral pronouncement was that count three was supposed to run concurrent to all sentences. His original judgment of conviction stated count three was only concurrent to count two and count two was consecutive to count one. Moore's amended judgment of conviction dismissed count two and stated count three was to be served consecutive to count one. Moore claims the confusion regarding count three was based on a mistaken assumption of fact that worked to his extreme detriment. Further, he claimed an evidentiary hearing was


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


necessary. The district court denied the motion without conducting an evidentiary hearing.

Moore claims the district court erred by denying his motion without conducting an evidentiary hearing. Moore's claims fell outside the narrow scope of claims permissible in a motion to modify because his claim was not based on a mistaken assumption regarding his *criminal record* that worked to his extreme detriment. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Further, even if his claim had been properly raised, Moore has raised similar challenges to his judgment of conviction, which have been rejected by the Nevada Supreme Court. *See Moore v. State*, Docket No. 62976 (Order of Affirmance, November 14, 2013); *Moore v. State*, Docket Nos. 51590, 52286, 53592, *3-4 (Order of Affirmance, February 4, 2010); *Moore v. State*, Docket No. 47155 (Order of Affirmance, April 6, 2007). Therefore, his claim was barred by the doctrine of law of the case, which "cannot be avoided by a more detailed precisely focused argument." *Hall v. State*, 91 Nev. 314, 535 P.2d 797 (1975). Accordingly, we conclude the district court did not err by denying the motion without first holding an evidentiary hearing, *see Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984), and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Michelle Leavitt, District Judge
Atiba Malik Moore
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk