

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

PHILLIP HARRY HUGHES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 71706

FILED

OCT 11 2017

ELIZABETH A. DROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE


Phillip Harry Hughes appeals from an order of the district court denying the motion to modify sentence he filed on September 16, 2016.¹ Eighth Judicial District Court, Clark County; Douglas Smith, Judge.


Hughes claims the district court erred by denying his motion to modify sentence because his sentence constituted cruel and unusual punishment, the sentencing court did not take into consideration he did not have any prior criminal history, and there were errors in the presentence investigation report (PSI). Hughes' claims regarding his sentence constituting cruel and unusual punishment fell outside the narrow scope of claims permissible in a motion to modify or correct an illegal sentence. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Further, Hughes failed to demonstrate the district court relied on mistaken assumptions regarding his criminal record that worked to his extreme detriment. *Id.* The fact Hughes did not have any prior criminal history was presented at sentencing and Hughes failed to specify any errors in the PSI

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

in his petition filed below. To the extent he argues on appeal the PSI contained aliases that were not his, this claim was not raised below and we decline to consider it for the first time on appeal. *McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999). Therefore, we conclude the district court did not err in denying Hughes' motion, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Douglas Smith, District Judge
Phillip Harry Hughes
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk