


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID THOMAS WARREN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 69177

FILED

MAY 17 2016

FRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying a motion to modify or correct illegal sentence.¹ Eighth Judicial District Court, Clark County; Kerry Louise Earley, Judge.


Appellant David Thomas Warren first argues the district court erred by denying his motion filed on September 23, 2015. Warren argues his conviction for felony driving under the influence (DUI) of intoxicating liquor was improperly enhanced because he was not actually convicted for a prior felony DUI until after he committed the instant offense. Warren's claim 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). Therefore, without considering the merits Warren's claim, we conclude the district court did not err in denying the motion.

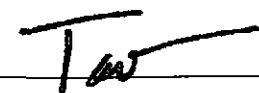
¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

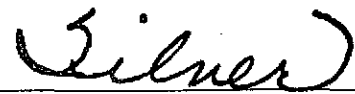
116-900582

Second, Warren argues NRS 484C.410 violates ex post facto principles. Warren did not raise this claim in his motion to modify or correct illegal sentence and we decline to consider this claim in the first instance. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Kerry Louise Earley, District Judge
David Thomas Warren
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk