

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KEVIN BROOKS, A/K/A RALPH KEVIN
CLARK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 77883-COA

FILED

DEC 20 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Kevin Brooks appeals from an order of the district court denying a motion for modification of sentence filed on November 16, 2018. Eighth Judicial District Court, Clark County; William D. Kephart, Judge.

In his motion, Brooks claimed the district court relied on mistaken assumptions regarding his criminal record when it sentenced him to life without the possibility of parole pursuant to the large habitual criminal statute. Specifically, he claimed the district court improperly relied on a 1980 burglary conviction from California when it enhanced his sentence to life without the possibility of parole pursuant to the large habitual criminal statute. Brooks provided correspondence he had with a court in California stating that the court case number he provided to them was not a valid case number.

In order to demonstrate a sentence should be modified, a defendant must show the district court relied on mistaken assumptions regarding the defendant's criminal record that worked to his extreme detriment. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

The burglary conviction that Brooks is challenging is in the name of Ralph Kevin Clark. The State provided a copy of the conviction, and other related documents, with its notice of intent to seek habitual criminal enhancement prior to trial. At trial, Brooks conceded he was Clark and a fingerprint analyst matched his fingerprint to the fingerprint associated with that burglary conviction. The fact that a California court had difficulty finding Brooks' conviction thirty-eight years later does not demonstrate that the conviction never existed. Therefore, Brooks failed to demonstrate the district court relied on mistaken assumptions regarding his criminal record that worked to his extreme detriment, particularly here where the State presented evidence of six other prior burglary convictions for Brooks that the district court considered when imposing sentence. Accordingly, we conclude the district court did not err by denying Brooks' motion, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. William D. Kephart, District Judge
Kevin Brooks
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk