

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BARBARO VAZQUEZ GRASS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 77805-COA

**FILED**

**DEC 27 2019**

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Barbaro Vazquez Grass appeals from an order of the district court denying a supplemental motion for resentencing filed on October 12, 2018.<sup>1</sup> Eighth Judicial District Court, Clark County; Ronald J. Israel, Judge.

Grass claims the district court erred by denying his motion based on the doctrine of law of the case.<sup>2</sup> Grass argues that his claims are different from his previous motion to correct. Specifically, he claims he was not requesting a modification to the presentence investigation report (PSI) as he did in his previous motion, but was instead asking for resentencing. In his current motion, Grass argued he should be resentenced because the

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<sup>1</sup>After receiving a response from Grass in regard to an order to show cause why this appeal should not be dismissed for lack of jurisdiction, the Nevada Supreme Court chose to construe Grass' appeal as an appeal from an order denying a motion to modify or correct his sentence.

<sup>2</sup>Motions to modify or correct are narrowly limited in scope. See *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Grass' claim that his due process rights were violated when he did not receive a copy of the PSI until four years after his sentencing was outside the scope of a motion to modify or correct an illegal sentence.

district court's sentence was based on untrue assumptions regarding his criminal record. He claimed these untrue assumptions worked to his extreme detriment because he has been denied parole based on them.


Grass' previous motion to correct was denied because errors in the PSI must be challenged at sentencing or on direct appeal from the judgment of conviction. *Grass v. State*, Docket No. 59099 (Order of Affirmance, December 7, 2011). Further, the Nevada Supreme Court determined that Grass failed to demonstrate his sentence should be modified or corrected. Specifically, the Nevada Supreme Court found Grass failed to demonstrate the district court sentenced him based on mistaken assumptions regarding his criminal record that worked to his extreme detriment or that his sentence was facially illegal or that the district court lacked jurisdiction to sentence him. *See id.* Because the Nevada Supreme Court already determined Grass was not entitled to a modification or correction of his sentence based on the alleged errors in the PSI, the claim raised in his current motion was barred by the doctrine of law of the case, *see Hall v. State*, 91 Nev. 314, 535 P.2d 797 (1975), and Grass did not provide a compelling reason to revisit the Nevada Supreme Court's decision, *see Tien Fu Hsu v. City of Clark*, 123 Nev. 625, 630-31, 173 P.3d 724, 728-29 (2007).

Moreover, we note that even if the doctrine of law of the case did not apply, Grass did not demonstrate the district court erred by denying his motion because his claim lacked merit. The PSI noted Grass was acquitted and the district court judge who sentenced Grass was the judge that oversaw the trial. Further, it was Grass who reported to the parole and probation officer that he had been in trouble in Cuba. The PSI correctly

noted that this information was unverified.<sup>3</sup> Therefore, Grass failed to demonstrate the district court sentenced him based on mistaken assumptions regarding his criminal history that worked to his extreme detriment. *See Edwards*, 112 Nev. at 708, 918 P.2d at 324. Additionally, Grass failed to demonstrate that his sentence was facially illegal or the district court lacked jurisdiction to sentence him. *See id.* Accordingly, we conclude the district court did not err by denying the motion, and we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Ronald J. Israel, District Judge  
Matthew D. Carling  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>3</sup>Grass also claimed it was error for the district court to consider the statement he purportedly gave to the parole and probation officer. However, because the statement did not relate to his criminal record, this claim was outside the scope of a motion to modify or correct an illegal sentence. *Edwards*, 112 Nev. at 708, 918 P.2d at 324.