

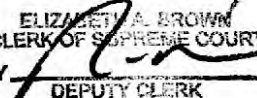
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROBERT JAMES WALSH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 78320-COA

FILED

JAN 30 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

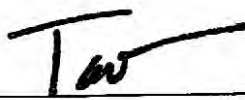
Robert James Walsh appeals from an order of the district court denying a motion for modification of his sentence filed on January 23, 2019. Fifth Judicial District Court, Nye County; Kimberly A. Wanker, Judge.

Walsh claimed the sentencing court relied on mistaken assumptions about his criminal record that worked to his detriment. See *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996) (“[A] motion to modify a sentence is limited in scope to sentences based on mistaken assumptions about a defendant’s criminal record which work to the defendant’s extreme detriment.”). Specifically, Walsh challenged the sentencing court’s consideration of pending felony charges in determining his sentence. “Other criminal conduct may properly be considered at the sentencing hearing, even though the defendant was never charged or convicted of it.” *Sheriff v. Morfin*, 107 Nev. 557, 560, 816 P.2d 453, 455 (1991). And while a sentencing court may not punish a defendant for those crimes, it may consider them “for the purpose of gaining a fuller assessment of the defendant’s life, health, habits, conduct, and mental and moral propensities.” *Denson v. State*, 112 Nev. 489, 494, 915 P.2d 284, 287 (1996).

Here, the record reflects the district court considered Walsh's pending charges merely as evidence of his propensity for violence. This is permissible under *Denson*. Further, to the extent Walsh suggested he was exonerated of those pending charges, the documentation he provided belies that claim. The exhibit Walsh attached to his motion indicated the charges were dismissed *without prejudice* because the parties thought pending litigation would render them moot. We therefore conclude the district court did not err by denying Walsh's petition, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Kimberly A. Wanker, District Judge
Robert James Walsh
Attorney General/Carson City
Nye County District Attorney
Nye County Clerk