

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JEREMY EVAN SIGAL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 80801-COA

FILED

NOV 13 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Jeremy Evan Sigal appeals from a district court order denying a motion to modify a sentence filed on October 29, 2019. Eighth Judicial District Court, Clark County; William D. Kephart, Judge.

Sigal made the following claims in his motion. The violation report that was prepared while he was participating in the felony DUI diversion program contained provably false representations. New evidence proved that the bases for his termination from the felony DUI diversion program were inaccurate and unwarranted. New evidence proved that he had been thriving in the felony DUI diversion program. The sentencing court did not have a presentence investigation report (PSI) for his sentencing in this case.¹ And provable mistreatment by the Division of Parole and Probation and the Nevada Department of Corrections shows the extreme detriment he suffers from the unwarranted harsher sentence.


¹The record demonstrates that the sentencing court used a PSI that was prepared on October 9, 2014, for Sigal's sentencing in district court case number C-14-296286-1 and that Sigal was sentenced in the instant case on November 5, 2014. See NRS 176.135(3)(b).


As a general rule, the district court lacks jurisdiction to modify a sentence after the defendant has begun serving it. *Staley v. State*, 106 Nev. 75, 79, 787 P.2d 396, 398 (1990), *overruled on other grounds by Hodges v. State*, 119 Nev. 479, 484, 78 P.3d 67, 70 (2003). There are three exceptions to this rule. First, for reasons of due process, a district court may “correct, vacate or modify a sentence that is based on a materially untrue assumption or mistake of fact that has worked to the extreme detriment of the defendant, but only if the mistaken sentence is the result of the sentencing judge’s misapprehension of a defendant’s criminal record.” *Edwards v. State*, 112 Nev. 704, 707, 918 P.2d 321, 324 (1996) (internal quotation marks and emphasis omitted). Second, a district court has the inherent authority to correct a facially illegal sentence. *Id.* at 707-08, 918 P.2d at 324; *see also* NRS 176.555. And, third, the district court may correct clerical mistakes in judgments at any time. NRS 176.565.

We conclude the district court did not err by denying Sigal’s motion because Sigal failed to demonstrate that the district court relied upon mistaken assumptions about his criminal record, his sentence is facially illegal, or the judgment of conviction contains a clerical error. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

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