# IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JACK JOSEPH BATTLE, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 80701-COA

**FILED**

DEC 11 2020

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

## *ORDER OF AFFIRMANCE*

Jack Joseph Battle, Jr., appeals from an order of the district court denying a motion for modification of sentence filed on December 30, 2019. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

In his motion, Battle claimed that the factual summary in the presentence investigation report (PSI) conflicted with the evidence presented at trial. Even assuming there were inaccuracies in the PSI's rendition of the facts, the same judge presided over the sentencing hearing and trial. Therefore, Battle cannot demonstrate the sentencing court relied on mistaken assumptions regarding his criminal record that worked to his extreme detriment. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

To the extent Battle also claimed the trial court erred by allowing the State to amend the information, the trial court judge was biased, the State committed prosecutorial misconduct, his sentence was disproportionate to a codefendant's sentence, there was insufficient evidence to convict him, and he received ineffective assistance of counsel, these claims were outside the scope of a motion to modify sentence. *See id.*

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Therefore, we conclude the district court did not err by denying Battle's motion. Accordingly, we

ORDER the judgment of the district court AFFIRMED.[1]

_____, C.J.
Gibbons

_____, J.
Tao

_____, J.
Bulla

cc:  Hon. Michelle Leavitt, District Judge
     Jack Joseph Battle, Jr.
     Attorney General/Carson City
     Clark County District Attorney
     Eighth District Court Clerk

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[1]We have reviewed all documents Battle has filed in this matter, and we conclude no relief based upon those submissions is warranted. To the extent Battle attempts to present claims or facts in those submissions which were not previously presented in the proceedings below, we decline to consider them in the first instance.