

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SEAN MICHAEL MCKENDRICK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 82920-COA

FILED

DEC 22 2021

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

ORDER OF AFFIRMANCE

Sean Michael McKendrick appeals from an order of the district court denying a motion for modification of sentence filed on February 24, 2021. Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

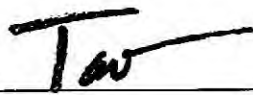
In his motion, McKendrick sought to have his prison sentence modified from 10 years to life down to 28 to 72 months. “[A] motion to modify a sentence is limited in scope to sentences based on mistaken assumptions about a defendant’s criminal record which work to the defendant’s extreme detriment.” *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). McKendrick claimed the sentencing judge based her sentencing decision on the assumption that McKendrick had previously murdered someone. In support, he pointed to two places in the sentencing transcript where the sentencing judge stated that McKendrick had committed murder or killed someone.

The district court judge who heard McKendrick’s motion, was also the sentencing judge and stated that she had simply misspoken when referring to McKendrick’s previous charge of attempted murder as murder. The district court further found that it had reviewed the underlying police

reports and the presentence investigation report and, thus, knew that McKendrick had not been charged with murder. Finally, the district court noted in sentencing McKendrick it had focused on the overall violent nature of McKendrick's prior crimes committed while he was both in and out of custody. The district court judge concluded that, for the above reasons, McKendrick did not demonstrate that she, as the sentencing judge, had based her sentencing decision on a mistaken assumption about McKendrick's criminal record or that it resulted in his extreme detriment. The district court's findings are supported by the record before this court, and we concluded the district court, therefore, did not err by denying McKendrick's motion for modification of his sentence. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Jacqueline M. Bluth, District Judge
Sean Michael McKendrick
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk