

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LUIS ALONSO HIDALGO, III,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 82902-COA

FILED

FEB 23 2022

ELIZABETH L. BOYD
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Luis Alonso Hidalgo, III, appeals from an order of the district court denying a motion to modify sentence. Eighth Judicial District Court, Clark County; Cristina D. Silva, Judge.

Hidalgo argues the district court erred by denying his October 15, 2019, motion and later-filed supplement. Hidalgo contends the district court did not properly review his pro se motion but instead improperly denied the motion based only on the issues contained within the supplement filed by his counsel.

“[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). The district court may summarily deny a motion to modify if the motion raises issues that fall outside of the very narrow scope of issues permissible in such motions. *Id.* at 708 n.2, 918 P.2d at 325 n.2.

In his pro se motion, Hidalgo contended that his sentence for his conviction of second-degree murder with the use of a deadly weapon violated the Double Jeopardy Clause because the jury did not convict him

of conspiracy to commit murder and there was no proof that he knew the victim would be shot. Hidalgo also appeared to contend that he should not have received a sentence for use of a deadly weapon. In his supplement, Hidalgo argued that he should not have been convicted of second-degree murder based upon the facts of the case. Hidalgo's supplement also reiterated that his conviction of second-degree murder with the use of a deadly weapon violated the Double Jeopardy Clause and that he should not have received a sentence for use of a deadly weapon.

The district court concluded that Hidalgo was seeking to set aside the jury's verdict and that he was not entitled to relief. Based on the record, we conclude that Hidalgo did not demonstrate that the district court failed to review his pro se motion. Moreover, Hidalgo's claims fall outside of the narrow scope of claims permissible in a motion to modify sentence, and therefore, without considering the merits of his claims, we conclude the district court did not err by denying Hidalgo's motion and supplement. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Cristina D. Silva, District Judge
Luis Alonso Hidalgo, III
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk