

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CRAIG ALLEN RODGERS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 83301-COA

FILED

APR 28 2022

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

ORDER OF AFFIRMANCE

Craig Allen Rodgers appeals from an order of the district court denying a motion to modify or correct an illegal sentence. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

Rodgers argues the district court erred by denying his April 27, 2021, motion. In his motion, Rodgers first claimed that the presentence investigation report (PSI) contained errors concerning his criminal history. “[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). A motion to correct an illegal sentence may only challenge the facial legality of the sentence: either the district court was without jurisdiction to impose a sentence or the sentence was imposed in excess of the statutory maximum. *Id.*

At the sentencing hearing, the parties informed the sentencing court that the PSI contained an error concerning Rodgers’ criminal record because it improperly listed a previously dismissed conviction of possession of a controlled substance with intent to sell. The sentencing court acknowledged the error and decided to order portions of the PSI containing

information concerning the relevant conviction to be stricken. The parties also informed the sentencing court that they stipulated to a sentence totaling 72 to 240 months and Rodgers' guilty plea was conditioned upon the imposition of the stipulated sentence. The sentencing court agreed to impose a sentence of 72 to 240 months in prison and made no reference to any information contained within the PSI when it imposed sentence. In light of the record, Rodgers did not demonstrate that the district court relied upon mistaken assumptions regarding his criminal record that worked to his extreme detriment. In addition, Rodgers' claim was not within the scope of a motion to correct an illegal sentence. Therefore, we conclude that the district court did not err by denying this claim.


Next, Rodgers claimed that the PSI contained errors concerning the facts of the offenses at issue in this matter and the sentencing court erred by failing to ensure that the PSI was corrected after it ordered portions of it stricken. Rodgers also appeared to claim that the Nevada Department of Corrections has improperly utilized portions of the PSI that contained errors when classifying him at the prison. These claims fell outside the narrow scope of claims permissible in a motion to modify or correct an illegal sentence. *See id.* Therefore, without considering the merits of any of these claims, we conclude the district court did not err by denying the motion.

Next, Rodgers contends that he should have been given the opportunity to review and respond to the proposed order before the district court adopted it. Rodgers does not identify any inaccuracies contained within the district court's order. In addition, Rodgers does not demonstrate the adoption of the proposed order adversely affected the outcome of the proceedings or his ability to seek full appellate review. Moreover, as

previously discussed, the district court properly denied Rodgers' motion, and therefore, any failure of the district court to ensure that he had an opportunity to review and respond to the proposed order was harmless. See NRS 178.598 ("Any error, defect, irregularity or variance which does not affect substantial rights shall be disregarded."). Accordingly, we conclude Rodgers is not entitled to relief based upon this claim, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Susan Johnson, District Judge
Craig Allen Rodgers
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk