

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RONALD ROSS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 83272-COA

FILED

JUN 23 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Ronald Ross appeals from an order of the district court denying a motion to modify or correct an illegal sentence filed on June 8, 2021. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

In his motion, Ross claimed that the sentencing court improperly relied upon a 2007 Nevada conviction for attempted larceny of the person ("2007 conviction") to adjudicate him a large habitual criminal, because the judgment of conviction for the 2007 conviction had not yet been entered at the time he was arrested for the instant offenses. Ross alleged he was entitled to a new sentencing proceeding because the four remaining out-of-state felony convictions submitted by the State to enhance his sentence were not reliably established, were nonviolent, and were remote.

"[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). "All prior convictions used to enhance a sentence must have preceded the primary offense." *Brown v. State*, 97 Nev. 101, 102, 624 P.2d 1005, 1006 (1981). "NRS 207.010 makes no special allowance for non-violent crimes or for the remoteness of convictions;


instead, these are considerations within the discretion of the district court.”
Arajakis v. State, 108 Nev. 976, 983, 843 P.2d 800, 805 (1992).

Because the 2007 conviction did not precede the primary offenses, the sentencing court erred by considering it to adjudicate Ross a large habitual criminal. At sentencing, the State presented booking photos to identify Ross as the person adjudicated on the four out-of-state convictions. Ross told the court he was the person in the booking photos. And the four prior convictions—although nonviolent—were entered in 2002 and were thus not remote. Therefore, Ross failed to demonstrate that the sentencing court’s consideration of the 2007 conviction worked to his extreme detriment. Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Michael Villani, District Judge
Ronald Ross
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹Ross raises several new claims on appeal. We decline to consider them in the first instance. *See McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999).