

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LEROY ROOSEVELT MACK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 84476-COA

FILED

AUG 29 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER AFFIRMING IN PART AND DISMISSING IN PART

Leroy Roosevelt Mack appeals from an order of the district court denying a “Motion for Sentence Reduction or Modification Based on Constitution Violation”¹ and a “Motion to Grant Relief or Release Based on COVID 19 Hardship Act” that were both filed on February 3, 2022. Eighth Judicial District Court, Clark County; Ronald J. Israel, Judge.

In his motion to modify sentence, Mack claimed that his counsel of record failed to appear for his sentencing hearing and that stand-in counsel did not have sufficient time to prepare for the hearing. Mack’s claim fell outside the narrow scope of claims permissible in a motion to modify sentence. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996) (stating “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”). Therefore, without considering its merits, we conclude the district court did not err by denying this claim.


¹The district court construed this motion as a motion to modify sentence.

On appeal, Mack raises several arguments for the first time. Because Mack did not raise these claims in his motion below, we decline to consider them on appeal in the first instance. *See McNelton v. State*, 115 Nev. 396, 415-16, 990 P.2d 1263, 1275-76 (1999).

Mack also appeals from an order denying his motion for relief due to COVID-19. However, no statute or court rule permits an appeal from such an order. Therefore, we lack jurisdiction to consider this portion of Mack's appeal and order it dismissed. *See Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990) ("We have consistently held that the right to appeal is statutory; where no statutory authority to appeal is granted, no right to appeal exists."). Accordingly, we

ORDER the judgment of the district court AFFIRMED in part and the appeal DISMISSED in part.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Ronald J. Israel, District Judge
Leroy Roosevelt Mack
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk