

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VAELII TALIAOA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 87838-COA

**FILED**

AUG 15 2024

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Vaelii Taliaoa appeals from a district court order denying a motion for the modification of a sentence filed on November 13, 2023. Eighth Judicial District Court, Clark County; Mary Kay Holthus, Judge.

In his motion, Taliaoa claimed his sentence should be modified because the district court relied on errors contained in his presentence investigation report (PSI) and at sentencing that worked to his extreme detriment. “[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).

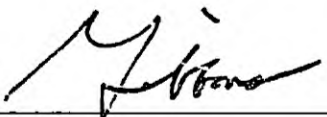
Taliaoa argued that the PSI and the prosecutor inaccurately described the victim’s injuries related to the instant offense. Taliaoa contended there was no evidence that the victim had a broken rib, “bled and

bled” internally, or had bruising on his body. These claims did not touch on Taliaoa’s criminal record and were thus outside the scope of a motion to modify a sentence. Accordingly, without considering the merits of these claims, we conclude the district court did not err by denying them.

Taliaoa also argued that the prosecutor inaccurately argued during sentencing that the victim had a “gray tooth.” The offense synopsis in the PSI states that the victim described “getting punched in the mouth causing his tooth to turn blue.” Taliaoa pleaded guilty to the second amended information, in which count 2 was pled in the alternative to encompass allegations of child abuse, neglect, or endangerment occurring between January 1, 2018, and August 8, 2020, including maltreatment by hitting and/or striking the victim on the “head and/or face . . . with Defendant’s hands and/or fists . . . .” To the extent the prosecutor’s comment described the victim’s injury related to the instant offense, the claim did not touch upon Taliaoa’s criminal record and was thus outside the scope of a motion to modify a sentence. To the extent the prosecutor’s comment described an injury arising from a prior event, nothing in the record before this court suggests that the district court was influenced by the challenged comment. Thus, Taliaoa did not demonstrate that the district court relied upon mistaken assumptions regarding his criminal record that worked to his extreme detriment. In light of these

circumstances, we conclude the district court did not err by denying this claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>1</sup>

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Bulla

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Mary Kay Holthus, District Judge  
Vaelii Taliaoa  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>1</sup>Insofar as Taliaoa attempts to raise new claims or argument on appeal, we decline to consider them in the first instance. *See McNelton v. State*, 115 Nev. 396, 415-16, 990 P.2d 1263, 1275-76 (1999).