


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHARLES H. PORTER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 87836-COA

**FILED**

OCT 04 2024

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*


Charles H. Porter appeals from an order of the district court denying a motion for modification of sentence filed on June 9, 2023. Eighth Judicial District Court, Clark County; Bitu Yeager, Judge.

In his motion, Porter claimed the sentencing court's decision to adjudicate him a habitual criminal was based on mistaken assumptions about his criminal record. Porter argued he lacked the requisite number of prior felony convictions to qualify for habitual criminal treatment. The Nevada Supreme Court has previously considered and rejected Porter's challenge to his habitual criminal adjudication. *See Porter v. State*, Docket No. 30680 (Order Dismissing Appeal, September 24, 1999); *Porter v. State*, Docket No. 48122 (Order of Affirmance and Directing Correction of Judgment of Conviction, April 6, 2007). The doctrine of the law of the case prevents further litigation of his habitual criminal adjudication and "cannot be avoided by a more detailed and precisely focused argument subsequently made after reflection upon the previous proceedings. *Hall v. State*, 91 Nev. 314, 315-16, 535 P.2d 797, 798-99 (1975). Porter further failed to demonstrate the district court relied on mistaken assumptions regarding his criminal record that worked to his extreme detriment. Therefore, we

conclude the district court did not err by denying Porter's motion. See *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

On appeal, Porter argues that his counsel was ineffective, the district court lacked the authority to adjudicate him a habitual criminal, his due process rights were violated by not having a competency evaluation and a hearing regarding the prior convictions the State intended to use in support of habitual criminal adjudication prior to sentencing, his habitual criminal adjudication violated his Double Jeopardy rights, and mitigating factors were not presented at sentencing. These claims were not raised in Porter's motion below, and we decline to consider them on appeal in the first instance. See *State v. Wade*, 105 Nev. 206, 209 n.3, 772 P.2d 1291, 1293 n.3 (1989). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Bitá Yeager, District Judge  
Charles H. Porter  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk