

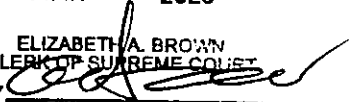
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOHN EDWARD KIRBY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 88791-COA

**FILED**

MAR 11 2025

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

John Edward Kirby appeals from a district court order denying a motion to modify or correct an illegal sentence filed on April 9, 2024. Second Judicial District Court, Washoe County; David A. Hardy, Judge.

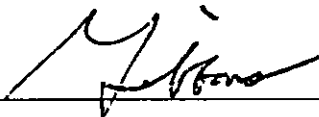
In his motion, Kirby claimed that the district court relied on an untrue assumption regarding his early departure from the Salvation Army treatment program and that, as a result, he did not receive probation. “[A] motion to modify a sentence is limited in scope to sentences based on mistaken assumptions 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.* The district court may summarily deny a motion to modify or correct an illegal sentence if the motion raises issues that fall outside of the very narrow scope of issues permissible in such motions. *Id.* at 708 n.2, 918 P.2d at 325 n.2.

Without considering the merits of Kirby’s claims, we conclude they fall outside the narrow scope of claims permissible in a motion to

modify or correct an illegal sentence. Therefore, we conclude the district court did not err by denying Kirby's motion, and we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. David A. Hardy, District Judge  
John Edward Kirby  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk