FILED
Aug 25 2026
ELIZABETH A. BROWN
CLERK OF SUPREME COURT

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SHAMEL JABBAR ROSS, Appellant, vs. THE STATE OF NEVADA, Respondent.	No. 91366-COA

ORDER OF AFFIRMANCE

Shamel Jabbar Ross appeals from a district court order denying a motion to modify a sentence filed on March 6, 2025. Eighth Judicial District Court, Clark County; Hon. Tara D. Clark Newberry, Judge.

In his motion, Ross argued his sentence should be modified because the sentencing court relied on mistaken assumptions about his criminal record. Specifically, Ross claimed the sentencing court stated he was a habitual criminal who should be sentenced to four consecutive prison terms. He also contended the sentencing court did not consider the habitual criminal factors and his mitigating evidence prior to concluding Ross was a habitual criminal. Because the State did not seek to adjudicate Ross as a habitual criminal and the sentencing court did not make any findings regarding habitual criminality, Ross argued he was prejudiced by the court's mistaken assumption that he was a habitual criminal as he was given the maximum

sentence for his conviction of attempted theft. "[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).

Even assuming the sentencing court made the alleged statements, Ross failed to demonstrate these statements were mistaken assumptions about his criminal record.[1] The presentence investigation report (PSI) showed that Ross had 15 prior felony convictions, *see* NRS 207.010(1) (providing the minimum number of felonies required for adjudication as a small habitual criminal as five and the minimum number of felonies required for adjudication as a large habitual criminal as seven), and Ross did not identify in his motion any errors with regard to specific convictions in the PSI or demonstrate that any conviction was mistakenly attributed to him. Further, Ross was not adjudicated a habitual criminal. Therefore, he has not shown the district court relied on mistaken assumptions about his criminal record that worked to his extreme detriment. As to Ross' claim that the sentencing court failed to consider the habitual criminal factors or his mitigating evidence, these claims were outside the scope of a motion to modify sentence, and we decline to consider them. Therefore, we conclude the district court did not err by denying Ross' motion to modify sentence, and we

[1]On April 20, 2026, Ross filed a "notice of record deficiency affecting appellate review," stating the sentencing transcript was not in the record on appeal and thus the record was inadequate for our review of this matter. Based on his claim and the record on appeal, we conclude the sentencing transcript is not necessary for our review.

ORDER the judgment of the district court AFFIRMED.[2]

Bulla, C.J.

Gibbons, J.

Westbrook, J.

cc: Hon. Tara D. Clark Newberry, District Judge
Attorney General/Carson City
Clark County District Attorney
Shamel Jabbar Ross
Eighth District Court Clerk

[2]To the extent Ross raises claims on appeal that were not raised below, we decline to consider them in the first instance. *See State v. Wade*, 105 Nev. 206, 209 n.3, 772 P.2d 1291, 1293 n.3 (1989).