

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSEPH J. BALDASSARE A/K/A JOSH
J. BALDASSARE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 38559

FILED

JUN 27 2002

JANETTE M BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's motion to correct a clerical mistake.

On August 7, 1998, the district court convicted appellant, pursuant to an Alford plea,¹ of one count of battery with the intent to commit a crime. The district court sentenced appellant to serve a minimum term of twenty-four months to a maximum term of eighty-four months in the Nevada State Prison. No direct appeal was taken.

On August 31, 2001, appellant filed a proper person motion to correct a clerical mistake. The State opposed the motion. On September 19, 2001, the district court denied the motion. This appeal followed.

In his motion, appellant claimed that there was an error in the judgment of conviction. Appellant stated that at sentencing the district court imposed a sentence of twenty-four months to seventy-two months. Appellant argued that his sentence, however, was incorrectly stated in the written judgment of conviction to be a term of twenty-four months to eighty-four months. Appellant requested the correction of the judgment of


¹North Carolina v. Alford, 400 U.S. 25 (1970).

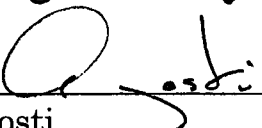
conviction to reflect his memory of the sentence announced by the district court during the sentencing hearing.

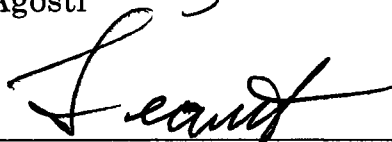
Based upon our review of the record on appeal, we conclude that the district court did not err in denying appellant's motion. The record on appeal belied appellant's claim. During the sentencing hearing, the district court stated, "I am going to impose a term of 84 months with a minimum parole eligibility of 24 months in the Nevada State Prison." The written judgment of conviction correctly reflected a term of twenty-four months to eighty-four months. Therefore, appellant was not entitled to the relief requested.

Having reviewed the record on appeal and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.² Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Young


_____, J.
Agosti


_____, J.
Leavitt

²See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

cc: Hon. Mark W. Gibbons, District Judge
Attorney General/Carson City
Clark County District Attorney
Joseph J. Baldassare
Clark County Clerk