

IN THE SUPREME COURT OF THE STATE OF NEVADA

GEORGE LOUIS QUINTANA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 40664

FILED

NOV 21 2003

ORDER OF AFFIRMANCE

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

This is a proper person appeal from an order of the district court denying a motion for sentence modification.

On November 16, 1993, the district court convicted appellant, pursuant to a guilty plea, of trafficking in a schedule I controlled substance (count I), and statutory sexual seduction (count II). The district court sentenced appellant to serve a term of life in the Nevada State Prison for count I, and a consecutive seven years in the Nevada State Prison for count II. This court dismissed appellant's appeal from his judgment of conviction.¹

On March 25, 1998, appellant filed a proper person motion for sentence modification in the district court. On March 31, 1998, the district court denied appellant's motion. No appeal was taken.

¹Quintana v. State, Docket No. 25739, (Order Dismissing Appeal, May 6, 1995).

On July 6, 1999, appellant filed a proper person motion to vacate sentence. The State opposed the motion. On November 22, 1999, the district court denied appellant's motion. No appeal was taken.

On November 7, 2002, appellant filed the instant proper person motion for sentence modification in the district court. On November 13, 2002, the district court denied appellant's motion. This appeal followed.

In his motion, appellant claimed that his sentence should be modified in accordance with 1995 legislative changes to NRS 453.3385. In addition, he contended that the district court should have allowed him to withdraw his guilty plea in the earlier proceedings because his sentence was in excess of his expectations.

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."² Our review of the record on appeal reveals that appellant's claims fell outside of the narrow scope of permissible claims in a motion for sentence modification. Furthermore, the 1995 amendatory provisions of NRS 453.3385 do not apply to offenses committed before July 1, 1995.³ Therefore, the 1995 amendments cannot serve as a basis to modify appellant's sentence. Appellant failed to otherwise demonstrate that the district court relied upon any mistaken assumption about his criminal record that worked to his extreme


²Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

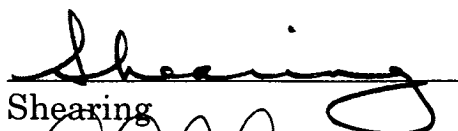
³See 1995 Nev. Stat., ch. 443, §§ 296, 393, at 1288, 1340.


detriment. Additionally, any challenge to the validity of the guilty plea is improperly raised in a motion to modify a sentence. Therefore, we conclude that the district court did not err in denying his motion.

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.⁴ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁵


_____, J.
Becker


_____, J.
Shearing


_____, J.
Gibbons

cc: Hon. Andrew J. Puccinelli, District Judge
George Louis Quintana
Attorney General Brian Sandoval/Carson City
Elko County District Attorney
Elko County Clerk

⁴See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁵We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.