

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE M. SANCHEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 41213

FILED

JUN 03 2003

ORDER OF AFFIRMANCE

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

This is a proper person appeal from an order of the district court denying appellant's "motion for resentencing consideration."

On December 17, 2001, the district court convicted appellant, pursuant to a guilty plea, of one count of battery with a deadly weapon causing substantial bodily harm and one count of possession of a controlled substance. The district court sentenced appellant to serve a term of forty-eight months to one hundred and twenty months for the battery count and a consecutive term of nineteen months to forty-eight months for the controlled substance count. No direct appeal was taken.

On February 27, 2003, appellant filed a proper person document labeled, "motion for resentencing consideration." The State opposed the motion. On March 21, 2003, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended that the presentence investigation report contained inaccurate information. Specifically, appellant claimed that the presentence investigation report erroneously stated that he had been arrested for a variety of offenses between 1992

and 1994. Appellant claimed that fingerprint records made during the bookings for these arrests would prove that he was not arrested for these offenses between 1992 and 1994. Appellant claimed that the erroneous arrest information had an adverse effect on parole consideration and he had enough convictions to address without having to answer to these as well.

Based upon our review of the record on appeal, we conclude that the district court did not err in denying appellant's motion. To the extent that appellant's motion could be construed to be a post-conviction petition for a writ of habeas corpus, appellant's claim fell outside the scope of claims permissible in a petition challenging a conviction based upon a guilty plea.¹ To the extent that appellant's motion could be construed to be a motion to correct an illegal sentence, appellant's claim fell outside the very narrow scope of claims permissible in a motion to correct an illegal sentence.² To the extent that appellant's motion could be construed to be a motion to modify his sentence, appellant failed to demonstrate that his sentence was based upon a materially untrue assumption or mistake of fact regarding appellant's criminal record that worked to appellant's extreme detriment.³ Appellant failed to substantiate or provide any cogent argument relating to his claim that the presentence report

¹See NRS 34.810(1)(a).


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


³See Edwards, 112 Nev. at 707-08, 918 P.2d at 324.

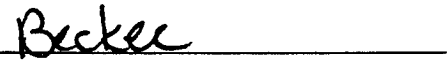
contained inaccurate information. Therefore, we affirm the order of the district court.

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.


_____, J.
Shearing


_____, J.
Leavitt


_____, J.
Becker

cc: Hon. Kathy A. Hardcastle, District Judge
Jose M. Sanchez
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

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