

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT ALLEN NEWSTED, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 41369

FILED

FEB 19 2004

ORDER OF AFFIRMANCE

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

This is a proper person appeal from a district court order denying appellant Robert Newsted, Jr.'s motion to modify his sentence.

On December 24, 1997, the district court convicted Newsted, pursuant to a guilty plea, of two felony counts of statutory sexual seduction (Counts I and II), and one gross misdemeanor count of statutory sexual seduction (Count III). The district court sentenced Newsted to serve two consecutive terms of sixty months in the Nevada State Prison with the possibility of parole in twenty months for Counts I and II. The district court sentenced Newsted to serve an additional term of twelve months in the Clark County Detention Center for Count III, which was imposed to run consecutively to Count II. Newsted filed an untimely notice of direct appeal, which was dismissed by this court.¹

¹Newsted v. State, Docket 34215 (Order Dismissing Appeal, June 1, 1999).

On March 19, 2003, Newsted filed a motion to modify his sentence in the district court.² The State opposed the motion. On April 11, 2003, the district court issued an order denying Newsted's motion. This appeal followed.

In his motion, Newsted requested that the district court reconsider or modify his twelve-month sentence imposed for Count III—gross misdemeanor statutory sexual seduction. Newsted contended that the following considerations supported his request: his age and immaturity at the time he committed the crimes; his educational, work-related, and personal accomplishments while at the Lovelock Correctional Center; the amount of time he has already served on his sentences; and arrangements he has made for a job and place to live upon his release from custody.

"[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."³ Newsted's arguments fell outside of the narrow scope of permissible claims that may support a motion to modify a sentence. Newsted did not contend that the district court relied upon any mistaken assumptions about his criminal

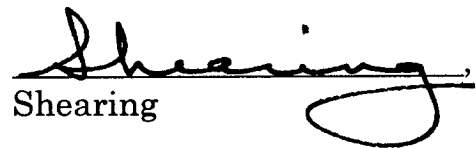
²Newsted's motion was entitled "Motion For Reconsideration Of Sentence." We conclude that the district court properly construed Newsted's motion as a motion to modify his sentence.

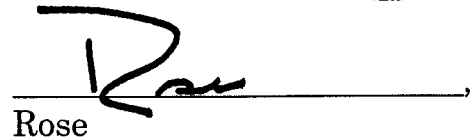
³Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).


record in imposing his sentence. Therefore, we conclude that the district court properly denied Newsted's motion.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Newsted is not entitled to relief and that briefing and oral argument are unwarranted.⁴ Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 C.J.
Shearing

 J.
Rose

 J.
Maupin

cc: Hon. Michael L. Douglas, District Judge
Robert Allen Newsted Jr.
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).