

IN THE SUPREME COURT OF THE STATE OF NEVADA

ERIC CHILDRESS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 42639

FILED

JUL 22 2004

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 a motion for sentence modification. Eighth Judicial District Court, Clark County; Lee A. Gates, Judge.

On July 23, 2002, the district court convicted appellant, pursuant to a guilty plea, of robbery. The district court sentenced appellant to serve a term of 24 to 60 months in the Nevada State Prison.

On November 21, 2003, appellant filed a proper person motion for sentence modification in the district court. The State opposed the motion. On February 18, 2004, the district court denied appellant's motion. This appeal followed.

In his motion, appellant claimed that although his sentence fell within statutory limits, it was based upon "materially untrue assumptions." Specifically, appellant asserted that the criminal complaint and his plea agreement reflected that he unlawfully took property from a person, yet his pre-sentence report indicated that he took property from a business. Appellant argued that taking property from a business instead of a person is a far less serious crime. Consequently, appellant contended his sentence should be modified. Appellant also asserted that the district

attorney coerced him into pleading guilty by threatening to have him adjudicated as a habitual criminal if he did not accept the plea agreement.

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."<sup>1</sup> A motion to modify a sentence that raises issues outside the very narrow scope of issues permissible may be summarily denied.<sup>2</sup>

Appellant failed to demonstrate that this sentence was based on a mistaken assumption about his criminal record that worked to his extreme detriment. The record reveals the following. Appellant was charged with robbery for stealing deodorant from a Raley's store in Las Vegas. Appellant, armed with a small box cutter knife, attempted to leave the store without paying for the deodorant. Two security guards, Tim Carroll and Tim Bryant, stopped appellant and identified themselves as security officers. Appellant swung the blade in an attempt to escape, cutting Carroll on his right index and middle fingers. The cut required several stitches. Appellant was immediately arrested. The elements of robbery were satisfied.<sup>3</sup> 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 properly denied appellant's motion.

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<sup>1</sup>Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

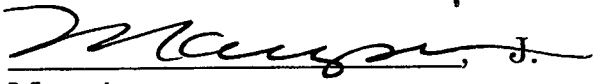
<sup>2</sup>Id. at 708-09 n.2, 918 P.2d at 325 n.2.

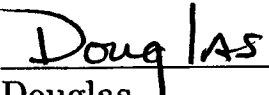
<sup>3</sup>See NRS 200.380.

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.<sup>4</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Douglas

cc: Hon. Lee A. Gates, District Judge  
Eric Childress  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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