

IN THE SUPREME COURT OF THE STATE OF NEVADA

KESA WARREN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52782

FILED

JUL 31 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a motion for modification of sentence. Eighth Judicial District Court, Clark County; John S. McGroarty, Judge.

On May 25, 2006, the district court convicted appellant, pursuant to a guilty plea, of one count of conspiracy to commit robbery and one count of robbery with the use of a deadly weapon. The district court sentenced appellant to serve a term of 28 to 72 months in the Nevada State Prison for conspiracy to commit robbery to be served concurrently with two consecutive terms of 48 to 150 months in the Nevada State Prison for robbery with the use of a deadly weapon. Appellant did not file a direct appeal.

On September 17, 2008, appellant filed a proper person motion for sentence modification in the district court. On October 13, 2008, the district court denied appellant's motion.

On October 10, 2008, appellant filed a second proper person motion for sentence modification in the district court.¹ The State opposed the motion. On November 6, 2008, the district court denied appellant's motion. This appeal followed.

In her motion, appellant claimed that the presentence investigative report contained errors which worked to her extreme detriment at sentencing. Appellant did not specify what these errors were. Further, appellant appeared to claim that the district court erred by denying her motion without allowing her to be present at the hearing.

“[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.” Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). A motion to modify a sentence that raises issues outside the very narrow scope of issues permissible may be summarily denied. Id. at 708-09 n.2, 918 P.2d at 325 n.2.


Our review of the record on appeal reveals the district court did not err in denying the motion. Appellant failed to demonstrate that the district court relied upon any mistakes about her criminal record that worked to her extreme detriment because she failed to specify what errors existed in the presentence investigative report. Further, appellant's claim that her motion was erroneously decided at a hearing outside her presence is without merit. Appellant was not entitled to a hearing on her motion. But see Gebers v State, 118 Nev. 500, 504, 50 P.3d 1092, 1094 (2002)

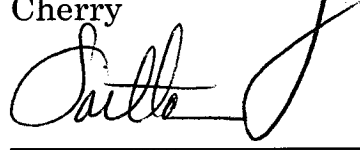
¹The second motion was filed after the district court orally denied the first motion, but before the written order was filed.


(requiring a petitioner's presence at an evidentiary hearing on a post-conviction petition for a writ of habeas corpus pursuant to NRS chapter 34). 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. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).² Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Chief Judge, Eighth Judicial District
Hon. John S. McGroarty, Senior Judge
Kesa Warren
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

²We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted.