

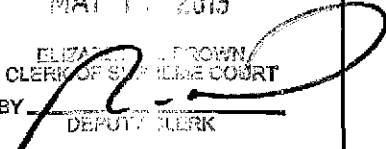
IN THE SUPREME COURT OF THE STATE OF NEVADA

NARCISO TORRES, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 76459

FILED

MAY 11 2019

ELIZABETH L. CROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a pro se appeal from a district court order denying a motion for sentence reduction.¹ Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Appellant claims that his sentence should be reduced because the weight of the drugs varied and his counsel should have conducted independent testing. The district court construed the motion as a postconviction petition for a writ of habeas corpus and denied it as procedurally barred. We conclude that the district court did not err. Appellant's claims challenged the validity of the judgment of conviction and sentence and thus had to be raised in a postconviction petition for a writ of habeas corpus.² See NRS 34.724(2)(b). Appellant further failed to demonstrate good cause to excuse the filing of an untimely and successive

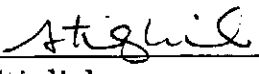
¹Having considered the pro se brief filed by appellant, we conclude that a response is not necessary. NRAP 46A(c). This appeal therefore has been submitted for decision based on the pro se brief and the record. See NRAP 34(f)(3).

²Appellant's claim fell outside the scope of claims permissible in a motion to modify sentence. See *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

habeas corpus petition.³ See NRS 34.726(1); NRS 34.810(1)(b), (2), (3); *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Stiglich


_____, J.
Silver

cc: Hon. Connie J. Steinheimer, District Judge
Narciso Torres, Jr.
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

³*Torres v. State*, Docket No. 45982 (Order of Affirmance, March 27, 2006) (direct appeal, remittitur issued April 21, 2006); *Torres v. State*, Docket No. 50698 (Order of Affirmance, April 14, 2008) (habeas corpus appeal).