

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

OSCAR PEREZ-MARQUEZ,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 84716-COA

FILED

OCT 21 2022

ELIZABETH A. NEWMAN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Oscar Perez-Marquez appeals from an order of the district court denying a motion to modify sentence. Fifth Judicial District Court, Nye County; Kimberly A. Wanker, Judge.

On April 25, 2022, Perez-Marquez filed a “notice of motion no hearing requested notice of status check” which the district court construed as a motion to modify sentence.<sup>1</sup> It appears this notice related to a prior pleading filed by Perez-Marquez on November 12, 2021, entitled “notice of motion hearing requested ‘new rule of law’ retroactively revised application of (N.R.S.) Nevada revised statute # 209.4465 subsection #8 - #9 and section #2.” In that pleading, Perez-Marquez argued that the Nevada Department of Corrections should apply the 2021 changes made to NRS 209.4465 to the calculation of his statutory good time credits.

Perez-Marquez’s claim fell outside the narrow scope of claims permissible in a motion to modify sentence. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Therefore, without considering the


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<sup>1</sup>Perez-Marquez does not argue that the district court erred by construing his motion as a motion to modify sentence.

merits of this claim, we conclude the district court did not err by denying the motion. Further, to the extent Perez-Marquez raises claims on appeal that are new and different than that raised in his motion below, we decline to consider them for the first time on appeal. *See McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Kimberly A. Wanker, District Judge  
Oscar Perez-Marquez  
Attorney General/Carson City  
Nye County District Attorney  
Nye County Clerk