


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FRANCISCO SUAREZ ARCIBAL, A/K/A  
FRANCISCO SUAREZ ARCIBAL, V.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 86506-COA

**FILED**

**OCT 06 2023**

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Francisco Suarez Arcibal appeals from an order of the district court denying a motion for modification of sentence filed on March 22, 2023. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

In his motion, Arcibal claimed his presentence investigation reports wrongly said a protective order was in place at the time of the instant offenses and that he burned his minor daughter in the course of committing the instant offenses.

“[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). Arcibal’s claims did not touch on his criminal record and were thus outside the scope of a motion for modification of sentence. Accordingly, without considering the merits of Arcibal’s claims, we conclude the district court did not err by denying his motion.

On appeal, Arcibal claims the district court erred by failing to state the reasons for denying his motion. Because Arcibal’s claims were outside the scope of those allowed in a motion for sentence modification, any error by the district court was harmless. *See* NRS 178.598 (“Any error,

defect, irregularity or variance which does not affect substantial rights shall be disregarded.”). Therefore, we conclude Arcibal is not entitled to relief based on this claim, and we

ORDER the judgment of the district court AFFIRMED.<sup>1</sup>

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

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

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Tierra Danielle Jones, District Judge  
Francisco Suarez Arcibal  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>1</sup>To the extent Arcibal raises claims for the first time on appeal, we decline to consider them in the first instance. *See McNelton v. State*, 115 Nev. 396, 415-16, 990 P.2d 1263, 1275-76 (1999).