

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KEVIN BROOKS, A/K/A RALPH KEVIN
CLARK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 76808-COA

FILED

JUN 25 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Kevin Brooks appeals from an order of the district court denying a motion to modify sentence filed on June 26, 2018.¹ Eighth Judicial District Court, Clark County; William D. Kephart, Judge.

In his motion, Brooks claimed the district court relied on mistaken assumptions regarding his criminal record when it sentenced him to life without the possibility of parole pursuant to the large habitual criminal statute. Specifically, he claimed the State's sentencing memorandum in support of habitual criminal adjudication incorrectly stated he had been convicted of failure to return in California case number A519432. Brooks provided documentation that the conviction in case number A519432 belonged to a different defendant.

While the sentencing memorandum referenced A519432, this was a typographical error. Brooks was convicted in A529432 of failure to return, and the district court was provided with a certified copy of that conviction. Therefore, Brooks' claim lacked merit and he failed to

¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

demonstrate that when imposing sentence the district court relied on mistaken assumptions regarding his criminal record that worked to his extreme detriment. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Accordingly, we conclude the district court did not err by denying Brooks' motion, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. William D. Kephart, District Judge
Kevin Brooks
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk