

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRANDON DEMARIUS GREEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 83518-COA

FILED

MAR 30 2022

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

ORDER OF AFFIRMANCE

Brandon Demarius Green appeals from an order of the district court denying a motion to modify sentence filed on July 27, 2021. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Green claimed that errors in his presentence investigation report (PSI) worked to his detriment. “[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).

Green alleged he had only been to prison three times previously but that his PSI stated he had five prior prison incarcerations. The PSI provided that two prior felony convictions out of Louisiana were ordered to be served concurrently and that two prior felony convictions out of Nevada were ordered to be served concurrently. Therefore, while the PSI listed the prior prison incarcerations as five, the PSI correctly provided that Green had only been to prison three times previously. Green thus failed to demonstrate there was an error in the PSI or that the sentencing court relied on mistaken assumptions about his criminal record that worked to

his extreme detriment. Therefore, we conclude the district court did not err by denying this claim.

Green also raised claims challenging the validity of his judgment of conviction and sentence. These claims were outside the scope of claims permissible in a motion to modify or correct an illegal sentence. *See id.* Therefore, without considering the merits of these claims, we conclude the district court did not err by denying them. Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Michelle Leavitt, District Judge
Brandon Demarius Green
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹To the extent Green raises new arguments in his informal brief 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).