

IN THE SUPREME COURT OF THE STATE OF NEVADA

GRADY ONZO MULLINS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 43133

FILED

SEP 28 2004

ORDER OF AFFIRMANCE

JANETTE M. CLOON  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Kathy A. Hardcastle, Judge.

On May 22, 2002, the district court convicted appellant, pursuant to a guilty plea, of two counts of attempted sexual assault (Counts I and II), two counts of battery with the intent to commit a crime (Counts III and IV), two counts of coercion (Counts V and VI), one count of indecent exposure (Count VII), and one count of open or gross lewdness (Count VIII). The district court sentenced appellant to serve a maximum term of 240 months in the Nevada State Prison with a minimum parole eligibility after 96 months plus lifetime supervision for each of Counts I and II, a maximum term of 180 months with a minimum parole eligibility after 72 months for each of Counts III and IV, a maximum term of 45 months with a minimum parole eligibility after 18 months for each of Counts V and VI, a term of 12 months in the Clark County Detention Center for Count VII, and a term of 12 months in the Clark County Detention Center for Count VIII. The sentences for Counts I through VI were imposed to run consecutively. The sentences for Counts VII and VIII

were imposed to run concurrent with the sentences imposed for Counts I through VI. This court affirmed appellant's judgment of conviction and sentence on appeal.<sup>1</sup> The remittitur issued on January 7, 2003.

On January 13, 2004, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to conduct an evidentiary hearing. On March 22, 2004, the district court denied appellant's petition. This appeal followed.

Appellant filed his petition six days beyond the one year statutory time period.<sup>2</sup> Appellant's petition was procedurally barred absent a demonstration of good cause for the delay and prejudice.<sup>3</sup>

Appellant did not attempt to demonstrate good cause to excuse the procedural defect. Thus, we conclude that the district court did not err in dismissing appellant's petition.

To the extent that appellant's petition could be construed as a motion to correct illegal sentence, appellant's claim fell outside the scope of claims permissible in a motion to correct an illegal sentence.<sup>4</sup> Therefore, we affirm the order of the district court.

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<sup>1</sup>Mullins v. State, Docket No. 39632 (Order of Affirmance, December 10, 2002).

<sup>2</sup>See NRS 34.726(1).


<sup>3</sup>See id.; Gonzales v. State, 118 Nev. 590, 53 P.3d 901 (2002).

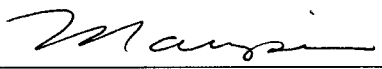
<sup>4</sup>See Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996) (holding that a motion to correct illegal sentence may only challenge the facial legality of the sentence: either the district court was without

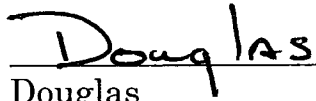
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Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.<sup>5</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>6</sup>

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Douglas

cc: Hon. Kathy A. Hardcastle, District Judge  
Grady Onzo Mullins  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

... continued

jurisdiction to impose a sentence or the sentence was imposed in excess of the statutory maximum).

<sup>5</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

<sup>6</sup>We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.