

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN CRAIG ROMINE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43391

FILED

NOV 03 2004

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
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 Steven Craig Romine's post-conviction "motion for correction of judgment of conviction due to clerical mistake and judicial oversight." Eighth Judicial District Court, Clark County; John S. McGroarty, Judge.

On June 25, 1997, the district court convicted Romine, pursuant to a guilty plea, of driving and/or being in actual physical control while under the influence of intoxicating liquor. The district court sentenced Romine to serve a term of eight to twenty years in the Nevada State Prison. This court dismissed Romine's appeal from his judgment of conviction and sentence.¹ The remittitur issued on July 6, 2000.

On April 16, 2004, Romine filed a proper person "motion for correction of judgment of conviction due to clerical mistake and judicial

¹Romine v. State, Docket No. 31246 (Order Dismissing Appeal, June 9, 2000).

oversight." The State opposed the motion. On August 3, 2004, the district court denied Romine's motion. This appeal followed.

Romine alleged two errors in his judgment of conviction. First, he asserted that the judgment of conviction incorrectly reflects that he pleaded guilty on April 13, 1997, when he actually pleaded guilty on April 3, 1997. Second, Romine argued that the district court erred in ordering him to pay \$37,268.82 in restitution because the victims received approximately \$30,000 in insurance proceeds. He also argued that he should not be liable for the remaining \$7,268.82 because "the balance of any amounts due, in all likelihood, were [sic] paid by the other driver's insurance company."

To the extent that Romine's motion can be construed as a motion to correct an illegal sentence, we conclude that it falls outside the scope of permissible claims. A motion to correct an illegal sentence may only challenge the facial legality of the sentence: either the district court was without jurisdiction to impose a sentence or the sentence was imposed in excess of the statutory maximum.² "A motion to correct an illegal sentence 'presupposes a valid conviction and may not, therefore, be used to challenge alleged errors in proceedings that occur prior to the imposition of sentence.'"³ Romine's sentence was facially legal and thus he is not entitled to relief.

²Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

³Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).

To the extent that Romine's motion can be construed as a motion to modify his sentence, we conclude Romine's claims fall outside the scope of claims permissible in a motion to modify a sentence. 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."⁴ A motion to modify a sentence that raises issues outside the very narrow scope of issues permissible may be summarily denied.⁵ The alleged errors about which Romine complained did not constitute mistaken assumptions about his criminal record that worked to his extreme detriment. Accordingly, we conclude relief is not warranted in this regard.

Furthermore, as a separate and additional basis upon which to deny Romine relief, we conclude Romine's claims are without merit. Romine did not demonstrate that any error in the judgment of conviction concerning the date he entered his guilty plea prejudiced him. Moreover, there is no requirement that the judgment of conviction include such information.⁶

We further conclude that Romine is not entitled to relief with respect to his contention that the district court erred in ordering him to pay \$37,268.82 in restitution. Romine's obligation to pay restitution may

⁴Id.

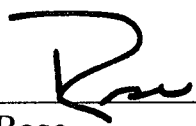
⁵Id. at 708-09 n.2, 918 P.2d at 325 n.2.

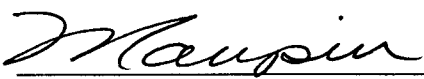
⁶See NRS 176.105.


not be reduced because his victims were reimbursed by insurance proceeds.⁷

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Romine is not entitled to relief and that briefing and oral argument are unwarranted.⁸ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Rose


_____, J.
Maupin


_____, J.
Douglas

cc: Hon. John S. McGroarty, District Judge
Steven Craig Romine
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

⁷See Martinez v. State, 115 Nev. 9, 12, 974 P.2d 133, 135 (1999).

⁸See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).