

IN THE SUPREME COURT OF THE STATE OF NEVADA

SHANNON DEAN CARTER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45349

FILED

APR 19 2006

SHANNON DEAN CARTER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45350

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

SHANNON DEAN CARTER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45351

ORDER OF AFFIRMANCE

These are consolidated appeals from an order of the district court denying appellant Shannon Dean Carter's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

Pursuant to plea agreements in three different cases, the district court convicted and sentenced Carter for one count each of first-degree kidnapping, second-degree kidnapping with the use of a deadly weapon, statutory sexual seduction, domestic battery, and burglary. In two of these cases, the district court imposed a special sentence of lifetime supervision. We affirmed the judgments of conviction on direct appeal.¹

¹Carter v. State, Docket No. 38787 (Order of Affirmance, December 19, 2002); Carter v. State, Docket No. 38788 (Order of Affirmance, July 29, 2002); *continued on next page . . .*

Carter subsequently filed a timely proper person post-conviction petition for a writ of habeas corpus. After granting the State's motion for a partial dismissal of the petition, the district court appointed counsel to assist Carter and conducted an evidentiary hearing. The district court found that Carter's sentences were illegal, corrected sentences by striking the provisions for special lifetime supervision, and denied the remainder of the habeas petition. This appeal follows.

Carter's sole contention is that the district court erred by correcting the illegal sentences rather than allowing him to withdraw his guilty plea as provided for in Palmer v. State.² We disagree.

The district court found that Carter entered his guilty pleas knowingly, intelligently, and voluntarily. Carter did not plead guilty to a crime for which the court must impose a special sentence of lifetime supervision, the State did not seek a hearing to determine whether Carter's crimes were sexually motivated, and the district court did not conduct such a hearing.³ Because the issue of Carter's motivation for conducting his crimes was not litigated and adjudicated, the district court lacked the authority to impose special sentences of lifetime supervision, and these sentences are therefore illegal.⁴ And with the removal of the

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2002); Carter v. State, Docket No. 38786 (Order of Affirmance, June 26, 2002).

²118 Nev. 823, 59 P.3d 1192 (2002) (holding that a defendant must be informed of lifetime supervision as it is a direct consequence of the plea).

³See NRS 176.0931(5).


illegal sentences,⁵ Carter would receive the benefit of his plea bargain and not suffer any prejudice.

The district court's factual findings are entitled to deference when reviewed on appeal.⁶ In his appeal, Carter has not demonstrated that the district court's findings of fact are not supported by substantial evidence or are clearly wrong. Nor has he shown that the district court erred as a matter of law. Accordingly, we conclude that Carter has failed to demonstrate that the district court abused its discretion by finding his plea valid and correcting the illegal sentences.⁷ We therefore

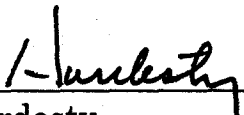
ORDER the judgment of the district court AFFIRMED.

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

... continued

⁴See Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996) (defining an illegal sentence as one that is at variance with the controlling sentencing statute or that the court lacks the authority to impose).

⁵See NRS 176.555 ("The court may correct an illegal sentence at any time.").

⁶See Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994).

⁷See Hubbard v. State, 110 Nev. 671, 675, 877 P.2d 519, 521 (1994) (providing that this court will not reverse a district court's determination concerning the validity of a plea absent a clear abuse of discretion).

cc: Hon. Janet J. Berry, District Judge
Attorney General George Chanos/Carson City
Scott W. Edwards
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk