

IN THE SUPREME COURT OF THE STATE OF NEVADA

NARVIEZ V. ALEXANDER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45385

FILED

SEP 26 2005

ORDER OF AFFIRMANCE

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

This is a proper person appeal from an order of the district court denying appellant's motion to correct an illegal sentence. Eighth Judicial District Court, Clark County; Sally L. Loehrer, Judge.

On January 4, 1995, the district court convicted appellant, pursuant to a guilty plea, of four counts of robbery with a deadly weapon, and one count of first degree kidnapping with the use of a deadly weapon. The district court sentenced appellant to serve four terms of fifteen years for each of the robbery counts, each with an equal and consecutive fifteen-year deadly weapon enhancement, and a term of seventy-five years for the kidnapping count, with an equal and consecutive seventy-five-year deadly weapon enhancement in the Nevada State Prison. This court dismissed appellant's appeal from his judgment of conviction.¹ The remittitur issued on May 9, 2000.

On April 20, 2005, appellant filed a proper person motion to correct an illegal sentence in the district court. On May 9, 2005, the district court denied appellant's motion. This appeal followed.

¹Alexander v. State, Docket No. 35153 (Order Dismissing Appeal, April 12, 2000).

In his motion, appellant contended that the court lacked jurisdiction to impose a sentence on appellant because appellant did not receive proper notice of the State's intention to seek a grand jury indictment pursuant to NRS 172.241.²

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.³ "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.'"⁴

Our review of the record on appeal reveals that the district court did not err in denying appellant's motion. By entering a guilty plea, appellant waived all errors arising prior to the plea.⁵ Moreover, as a separate and independent reason for denying relief, appellant's contention lacks merit. There is no evidence that this court or the legislature

²Sheriff v. Marcum, 105 Nev. 824, 783 P.2d 1389 (1989).

³Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

⁴Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).

⁵See Warden v. Lyons, 100 Nev. 430, 683 P.2d 504 (1984); Webb v. State, 91 Nev. 469, 538 P.2d 164 (1975).

cc: Hon. Sally L. Loehrer, District Judge
Narviez V. Alexander
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk


intended that a Marcum⁶ notice create a jurisdictional requirement for the grand jury or the district court.⁷

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.⁸ Accordingly, we

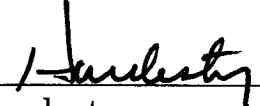
ORDER the judgment of the district court AFFIRMED.⁹

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

⁶105 Nev. 824, 783 P.2d 1389.

⁷See generally Gier v. District Court, 106 Nev. 208, 789, P.2d 1245 (1990) (holding that Marcum did not apply retroactively); NRS 172.241(2) (codifying this court's decision in Marcum and providing for waiver of notice for good cause).

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

⁹We 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.