

IN THE SUPREME COURT OF THE STATE OF NEVADA


DONELL BRYANT,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 45402

**FILED**

SEP 20 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY   
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying a motion to correct an illegal sentence. Eighth Judicial District Court, Clark County; Michael A. Cherry, Judge.

On March 8, 2001, the district court convicted appellant, pursuant to a guilty plea, of two counts of robbery and one count of possession of a firearm by an ex-felon. The district court sentenced appellant to serve terms totaling 70 to 312 months in the Nevada State Prison. No direct appeal was taken. Appellant unsuccessfully sought post-conviction relief.<sup>1</sup>

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

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<sup>1</sup>Bryant v. State, Docket No. 43629 (Order of Affirmance, February 3, 2005).

In his motion, appellant contended that he should not have been convicted of robbery because two of the victims told the author of the presentence report that they did not suffer any financial losses.

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.<sup>2</sup> "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.'"<sup>3</sup>

Our review of the record on appeal reveals that the district court did not err in denying appellant's motion. Appellant's claim fell outside of the scope of claims permissible in a motion to correct an illegal sentence. Appellant's sentences were facially legal, and there is no indication that the district court was without jurisdiction.<sup>4</sup> To the extent that appellant sought to challenge the validity of his guilty plea, such a challenge is improperly made in a motion to correct an illegal sentence.

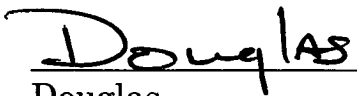
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<sup>2</sup>Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

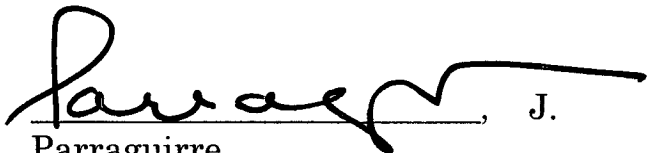
<sup>3</sup>Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).

<sup>4</sup>See NRS 200.380; 1997 Nev. Stat., ch. 229, § 4, at 828 (NRS 202.360).

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.  
Douglas

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

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Michael A. Cherry, District Judge  
Donell Bryant  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<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.