

IN THE SUPREME COURT OF THE STATE OF NEVADA

J. BENJAMIN ODOMS A/K/A JOHN B.
ODOM,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46049

FILED

DEC 21 2005

ORDER OF AFFIRMANCE

JANEITE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. R. R.*
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district denying appellant's motion to correct sentence. Eighth Judicial District Court, Clark County; Lee A. Gates, Judge.

On June 14, 1982, the district court convicted appellant, pursuant to a jury verdict, of burglary and attempted murder with the use of a deadly weapon. The district court adjudicated appellant a habitual criminal and sentenced appellant to serve three consecutive life terms in the Nevada State Prison without the possibility of parole. On appeal, this court affirmed appellant's convictions, vacated the life sentence without the possibility of parole imposed pursuant to the deadly weapon enhancement and affirmed appellant's two consecutive sentences of life without the possibility of parole for the primary offenses.¹ The remittitur issued May 2, 1986.

¹Odoms v. State, 102 Nev. 27, 714 P.2d 568 (1986).

On August 22, 1996, appellant filed a proper person motion for the correction of sentence in the district court. The State opposed the motion. On October 9, 1996, the district court denied appellant's motion. This court dismissed appellant's subsequent appeal.²

On January 30, 2001, appellant filed a second proper person motion for correction of sentence in the district court. The State opposed the motion. On March 6, 2001, the district denied the motion. This court affirmed the district court's denial of the motion.³

On August 22, 2005, appellant filed a third proper person motion to correct sentence in the district court. The State opposed the motion. On September 16, 2005, the district court denied the motion. This appeal followed.

In the instant motion, appellant attempted to raise previously litigated claims in the language of a motion to correct an illegal sentence. Specifically, appellant argued that because he was not charged under the habitual criminal statute (NRS 207.010) in the original indictment, his adjudication as a habitual criminal and sentencing under NRS 207.010 was facially illegal.

A motion to correct an illegal sentence may only challenge the facial legality of the sentence: either the district court was without

²Odoms v. State, Docket No. 29443 (Order Dismissing Appeal, November 20, 1998).

³Odom v. State, Docket No. 37617 (Order of Affirmance, January 2, 2002).

jurisdiction to impose a sentence or the sentence was imposed in excess of the statutory maximum.⁴ "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.'"⁵

On at least three previous occasions, this court has considered and rejected appellant's challenge to his adjudication and sentencing as a habitual criminal.⁶ The doctrine of law of the case prevents further litigation of these claims.⁷ Further, appellant cannot avoid application of this doctrine to his claims by a more detailed argument.⁸ Moreover, appellant's sentence was facially legal,⁹ and there is no indication the district court was without jurisdiction to impose sentence in this case.

⁴Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

⁵Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).

⁶Odoms, 102 Nev. 27, 714 P.2d 568 (1986); Odoms, Docket No. 29443; Odoms, Docket No. 37617.

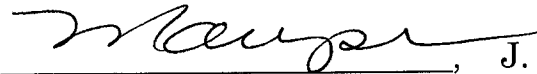
⁷See Hall v. State, 91 Nev. 314, 535 P.2d 797 (1975).

⁸Id. at 316, 535 P.2d at 799.

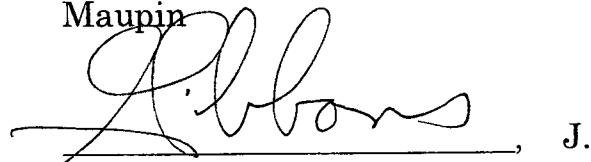
⁹NRS 207.010.

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.¹⁰ Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹¹

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

cc: Hon. Lee A. Gates, District Judge
J. Benjamin Odoms
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

¹⁰See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

¹¹We 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.