IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL KENNEDY HULL, JR. A/K/A MICHAEL KENNEDY HULL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46678

FILED

JUN 07 2006

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

ORDER OF AFFIRMANCE

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; Valorie Vega, Judge.

On February 15, 1995, the district court convicted appellant, pursuant to a jury verdict, of one count of first-degree kidnapping and two counts of sexual assault. The district court sentenced appellant to serve three concurrent terms of life in the Nevada State Prison with the possibility of parole. This court affirmed appellant's judgment of conviction.[1]

On September 7, 2005, appellant filed a proper person motion to correct an illegal sentence. On January 24, 2006, the district court denied appellant's motion.[2] This appeal followed.

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[1]Hull v. State, Docket No. 26611 (Order Dismissing Appeal, September 24, 1996).

[2]The district court granted appellant's request for a copy of his pre-sentence investigation report.

In his motion, appellant contended that his sentence was illegal. Appellant claimed that the district court lacked jurisdiction to sentence him because at the time of sentencing, the district court had not ruled on his motion for a new trial.

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 the motion. Appellant's sentence was facially legal.[5] There is no indication that the district court was without jurisdiction to impose a sentence upon appellant. We note that the record belies appellant's claim. The district court verbally denied appellant's motion for a new trial on December 9, 1994, prior to sentencing, and entered a written denial on February 24, 1995. Therefore, we affirm the order of the district court.

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

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

[5]1973 Nev. Stat., ch. 798, § 6, at 1804-05 (NRS 200.320); 1991 Nev. Stat., ch. 250, § 1, at 612-13 (NRS 200.366).

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.[6] Accordingly, we

ORDER the judgment of the district court AFFIRMED.[7]

Douglas, J.

Becker, J.

Parraguirre, J.

cc: Hon. Valorie Vega, District Judge
Michael Kennedy Hull Jr.
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

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

[7]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. Furthermore, appellant filed motions to dismiss his appeal on February 27, 2006, and April 27, 2006. We deny them as moot.