

IN THE SUPREME COURT OF THE STATE OF NEVADA

KENNY WAYNE HALL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 46732

**FILED**

JUN 30 2006

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. B. [Signature]*  
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; Michelle Leavitt, Judge.

On April 26, 2005, the district court convicted appellant, pursuant to a guilty plea, of one count of coercion. The district court sentenced appellant to serve a term of twenty-eight to seventy-two months in the Nevada State Prison. This court dismissed appellant's untimely appeal from his judgment of conviction and sentence for lack of jurisdiction.<sup>1</sup>

On December 23, 2005, appellant filed a proper person motion to correct an illegal sentence in the district court. The State opposed the motion. On January 19, 2006, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended that his sentence is illegal because his sentence exceeded the statutory maximum. Appellant asserted that he pleaded guilty to coercion (category "D" felony) but the

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<sup>1</sup>Hall v. State, Docket No. 45435 (Order Dismissing Appeal, July 7, 2005).

judgment of conviction indicates that he was convicted of coercion (category "B" felony).

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 appellant's claim lacks merit. Appellant pleaded guilty to coercion with the use of force, which is a category "B" felony and carries a sentence of one to six years.<sup>4</sup> Although the category of felony was mislabeled in the guilty plea agreement and at the plea canvass, appellant was properly informed that he was facing a sentence of one to six years. Appellant was sentenced to a term of twenty-eight to seventy-two months, which fell within the range required by statute.<sup>5</sup> Because appellant's sentence does not exceed the statutory maximum for coercion with the use of force, and appellant did not demonstrate that the district court lacked jurisdiction to impose the sentence, we conclude that the district court did not err in denying appellant's motion.

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

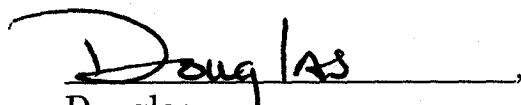
<sup>3</sup>Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).

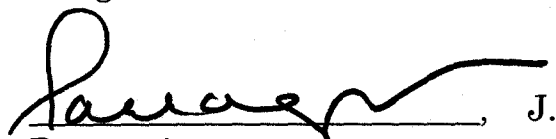
<sup>4</sup>See NRS 207.190(2).

<sup>5</sup>Id.

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>6</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>7</sup>

 \_\_\_\_\_, J.  
Douglas

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

 \_\_\_\_\_, Sr. J.  
Shearing

cc: Hon. Michelle Leavitt, District Judge  
Kenny Wayne Hall  
Attorney General George Chanos/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>6</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

<sup>7</sup>The Honorable Miriam Shearing, Senior Justice, participated in the decision of this matter under general orders of assignment entered January 6, 2006.