

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUAN VASQUEZ A/K/A JUAN
VAZQUEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46939

FILED

JUL 10 2006

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
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; Michelle Leavitt, Judge.

On October 3, 2005, the district court convicted appellant, pursuant to a guilty plea, of one count of grand larceny and one count of possession of stolen property. The district court sentenced appellant to serve two consecutive terms of nineteen to forty-eight months in the Nevada State Prison. No direct appeal was taken.

On January 27, 2006, appellant filed a proper person motion to correct an illegal sentence in the district court. On February 22, 2006, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended that his sentences were illegal because he could not be convicted of both grand larceny and possession of stolen property that was the subject of the grand larceny count.

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.¹ "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.'"²

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 the scope of claims permissible in a motion to correct an illegal sentence as it challenged the validity of his guilty plea. The sentences imposed were within the statutory limits, and there is no indication that the district court was without jurisdiction to impose a sentence.³

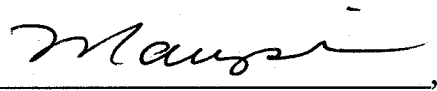
¹Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

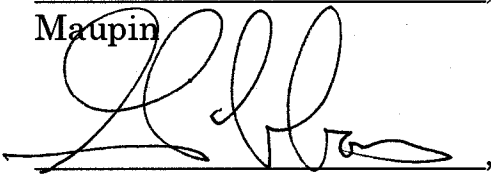
²Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).

³See NRS 205.222(2) (providing that if the value of the property stolen is less than \$2,500, the person who committed grand larceny is guilty of a category C felony); NRS 205.275(2)(b) (providing that if the value of stolen property is more than \$250 but less than \$2,500, the person who possesses stolen property is guilty of a category C felony); NRS 193.130(2)(c) (providing for a term of not less than one year nor more than five years for a category C felony).

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.⁴ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Maupin


_____, J.
Gibbons


_____, J.
Hardesty

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

⁴See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).