IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID HENRY YOUNG,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 47180

DAVID HENRY YOUNG,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 47181

FILED

AUG 10 2006

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

ORDER OF AFFIRMANCE

These are proper person appeals from orders of the district court filed in two consolidated cases that denied appellant's motion to correct an illegal sentence and modify sentence. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge. We elect to consolidate these appeals for disposition.[1]

On October 27, 1982, the district court convicted appellant, pursuant to a jury verdict, of one count each of burglary with the intent to commit a felony, sexual assault with the use of a deadly weapon, attempted sexual assault with the use of a deadly weapon, first-degree kidnapping with the use of a deadly weapon and attempted murder with the use of a deadly weapon. The district court sentenced appellant to

[1]See NRAP 3(b).

06-16620

serve two consecutive terms of life in the Nevada State Prison with the possibility of parole for sexual assault with the use of a deadly weapon. The district court also sentenced appellant to serve multiple terms totaling ninety years for the other counts, to be served concurrently with the sentences for sexual assault with the use of a deadly weapon. This court dismissed appellant's appeal from his judgment of conviction and sentence.[2] The remittitur issued on January 23, 1985. Appellant unsuccessfully sought post-conviction relief.[3]

On March 28, 2006, appellant filed a proper person motion to correct an illegal sentence and modify sentence in the district court. The State opposed the motion. On April 13, 2006, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended that the State violated NRS 172.241 because they did not provide him with advance notice of the grand jury hearing, and his sentences are unconstitutionally severe.

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

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[2]Young v. State, Docket No. 14592 (Order Dismissing Appeal, January 4, 1985).

[3]Young v. State, Docket No. 26627 (Order Dismissing Appeal, March 10, 1998); Young v. State, Docket No. 16842 (Order Dismissing Appeal, December 11, 1985).

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] A motion to modify a sentence "is limited in scope to sentences based on mistaken assumptions about a defendant's criminal record which work to the defendant's extreme detriment."[6] A motion to modify a sentence that raises issues outside the very narrow scope of issues permissible may be summarily denied.[7]

Our review of the record on appeal reveals that the district court did not err in denying appellant's motion. The sentences imposed did not exceed the statutory maximum,[8] and there is no indication that the district court was without jurisdiction to impose the sentences. Further, appellant's claims fell outside the limited scope of claims permissible in a motion to modify a sentence. We therefore affirm the denial of appellant's motion.

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

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

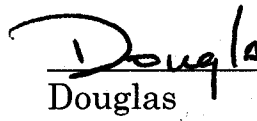
[6]Id. at 708, 918 P.2d at 324.

[7]Id. at 708-09 n.2, 918 P.2d at 325 n.2.

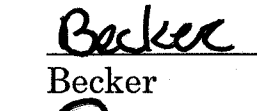
[8]See 1981 Nev. Stat., ch. 780, § 1 at 2050 (NRS 193.165); 1977 Nev. Stat., ch. 598, § 5 at 1627-28 (NRS 200.030); 1973 Nev. Stat., ch. 798, § 6 at 1804 (NRS 200.320); 1977 Nev. Stat., ch. 598, § 3 at 1626-27 (NRS 200.366); 1981 Nev. Stat., ch. 295, § 1 at 551 (NRS 205.060); 1981 Nev. Stat., ch. 64, § 1 at 158 (NRS 208.070).

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.[9] Accordingly, we

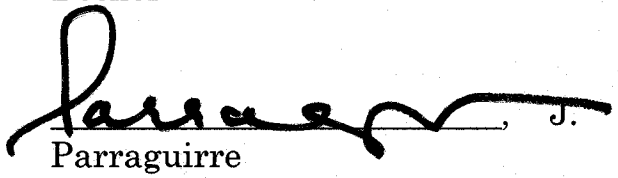
ORDER the judgments of the district court AFFIRMED.[10]



_____, J.
Douglas



_____, J.
Becker



_____, J.
Parraguirre

cc: Hon. Donald M. Mosley, District Judge
David Henry Young
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

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

[10]We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in these matters, 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.