

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD LEE KIGER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 47553

FILED

SEP 25 2006

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
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; Joseph T. Bonaventure, Judge.

On November 18, 2004, the district court convicted appellant, pursuant to a guilty plea, of one count of securities fraud. The district court sentenced appellant to serve a term of twenty-four to sixty months in the Nevada State Prison. The district court suspended the sentence and imposed a probationary term of five years. No direct appeal was taken.

On April 25, 2006, appellant filed a proper person motion to correct an illegal sentence in the district court. The State opposed the motion. On May 31, 2006, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended that the district court lacked jurisdiction because he did not have sufficient minimum contacts with Nevada. Appellant claimed that he had only been in Nevada on a nine-hour stopover and happened to discuss an investment opportunity

with a limousine driver in Nevada—the victim of appellant's crime. Appellant further claimed that his trial counsel was ineffective in failing to challenge Nevada's jurisdiction.

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

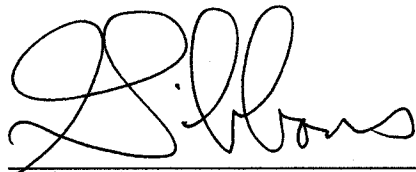
Our review of the record on appeal reveals that the district court did not err in denying the motion. Appellant failed to demonstrate that the district court was not a court of competent jurisdiction. Appellant entered a guilty plea and admitted that he had committed securities fraud in Clark County, in the State of Nevada. Appellant cannot challenge the factual basis of his guilty plea in a motion to correct an illegal sentence. Therefore, we affirm the order of the district court denying the motion.

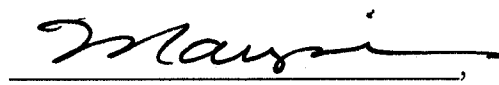
¹Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

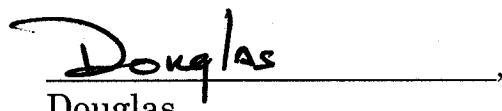
²Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).

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.³ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Gibbons


_____, J.
Maupin


_____, J.
Douglas

cc: Hon. Joseph T. Bonaventure, District Judge
Richard Lee Kiger
Attorney General George Chanos/Carson City
Clark County Clerk

³See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).