

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARK A. WASHINGTON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 47608

FILED

OCT 10 2006

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY J. Rehder
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; Sally L. Loehrer, Judge.

On October 20, 2004, the district court convicted appellant, pursuant to a guilty plea, of one count of battery with a deadly weapon. The district court sentenced appellant to serve a term of four to ten years in the Nevada State Prison. No direct appeal was taken.

On June 1, 2006, appellant filed a proper person motion to correct an illegal sentence in the district court. The State opposed the motion. On June 19, 2006, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended that he should not have been punished for using a deadly weapon because the items he used were

not inherently dangerous.¹ Appellant further claimed that the State should not have charged him with battery with using a deadly weapon.

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.² "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.'"³

Our review of the record on appeal reveals that the district court did not err in denying appellant's motion. Appellant entered a guilty plea to the offense of battery with the use of a deadly weapon. Appellant's sentence was facially legal, and there is no indication that the district court was without jurisdiction in the instant case.⁴ Appellant may not challenge the validity of his guilty plea in a motion to correct an illegal sentence. Therefore, we affirm the order of the district court.

¹Appellant used a belt and electrical cord to batter his victim.

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

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

⁴See NRS 200.481(2)(e)(1).

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.⁵ Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Becker, J.
Becker

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

cc: Hon. Sally L. Loehrer, District Judge
Mark A. Washington
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

⁵See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).