

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALLEN WHITE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 47964

**FILED**

**JAN 22 2007**

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 vacate an illegal sentence. Eighth Judicial District Court, Clark County; Sally L. Loehrer, Judge.

On March 28, 2002, the district court convicted appellant, pursuant to an Alford plea,<sup>1</sup> of two counts of attempted lewdness with a child under the age of fourteen. The district court sentenced appellant to serve two consecutive terms of two to ten years in the Nevada State Prison. The district court further imposed the special sentence of lifetime supervision. No direct appeal was taken. Appellant unsuccessfully sought

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<sup>1</sup>North Carolina v. Alford, 400 U.S. 25 (1970).

relief from his conviction by way of a post-conviction petition for a writ of habeas corpus.<sup>2</sup>

On August 11, 2006, appellant filed a proper person motion to vacate an illegal sentence in the district court. The State opposed the motion. On August 30, 2006, and on September 11, 2006, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended that his sentence was illegal because he was not advised during the plea canvass that the special sentence of lifetime supervision would be imposed. Appellant further claimed that the guilty plea agreement was never read aloud to him and he never read the guilty plea agreement, which made his response to the district court that he had read the guilty plea agreement false.

A motion to vacate or 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>3</sup> "A motion to correct an illegal sentence 'presupposes a valid conviction and may not, therefore, be used to

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<sup>2</sup>White v. State, Docket No. 41087 (Order of Affirmance, February 11, 2004).

<sup>3</sup>Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

challenge alleged errors in proceedings that occur prior to the imposition of sentence."<sup>4</sup>

Our review of the record on appeal reveals that the district court did not err in denying appellant's motion. Appellant's claims fell outside the scope of a motion to correct an illegal sentence, and appellant may not challenge the validity of his guilty plea in a motion to correct an illegal sentence. Appellant's sentence was facially legal, and there is no indication that the district court was not a court of competent jurisdiction.<sup>5</sup> Moreover, as a separate and independent ground to deny relief, appellant's claims lacked merit. Appellant was informed in the written guilty plea agreement that he was subject to the special sentence of lifetime supervision.<sup>6</sup> During the guilty plea canvass, appellant affirmatively indicated that he had read and discussed the written guilty plea agreement with his counsel and that he had understood everything in it. Appellant failed to provide any valid reason to discount his statements

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<sup>4</sup>Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).

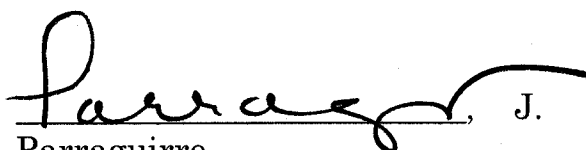
<sup>5</sup>See NRS 201.230 (lewdness with a child); NRS 193.330 (punishment for attempts); NRS 176.0931 (lifetime supervision).

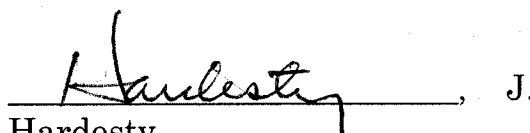
<sup>6</sup>See Palmer v. State, 118 Nev. 823, 59 P.3d 1192 (2002).

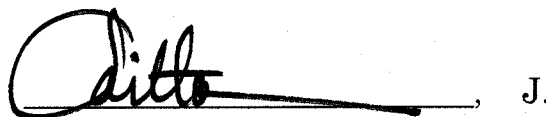
at the plea canvass. Therefore, we affirm the order of the district court denying appellant's motion.

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>7</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>8</sup>

  
Parraguirre J.

  
Hardesty J.

  
Saitta J.

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<sup>7</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

<sup>8</sup>We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, 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.

cc: Hon. Sally L. Loehrer, District Judge  
Allen White  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk