

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARRIO QUNTA MORELAND,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48115

FILED

JAN 24 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

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 January 20, 2004, the district court convicted appellant, pursuant to a guilty plea, of voluntary manslaughter with the use of a deadly weapon. The district court sentenced appellant to serve two consecutive terms of 48 to 120 months in the Nevada State Prison. This court affirmed appellant's judgment of conviction and sentence on direct appeal.¹

On August 17, 2006, appellant filed a proper person motion to correct an illegal sentence in the district court. On September 11, 2006, the district denied appellant's motion. This appeal followed.

In his motion, appellant contended that the district court unconstitutionally enhanced his sentence because there was no finding by

¹Moreland v. State, Docket No. 42825 (Order of Affirmance, May 28, 2004).

a jury that he used a deadly weapon. Appellant maintained that he entered a guilty plea only to the crime of voluntary manslaughter.

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 the motion. Appellant's sentence was facially legal.⁴ Appellant entered a guilty plea to the crime of voluntary manslaughter with the use of a deadly weapon, and appellant admitted to the facts supporting the deadly weapon enhancement. Thus, the district court was permitted to impose the deadly weapon enhancement.⁵ There is

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 200.080 (providing for a minimum term of not less than one year and a maximum term of not more than ten years for voluntary manslaughter); NRS 193.165 (requiring an equal and consecutive term for the deadly weapon enhancement).

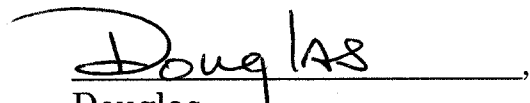
⁵See Blakely v. Washington, 542 U.S. 296, 303 (2004) (stating that precedent makes it clear that the statutory maximum that may be imposed is "the maximum sentence a judge may impose solely on the basis of the facts reflected in the jury verdict or admitted by the defendant") (emphasis in original).

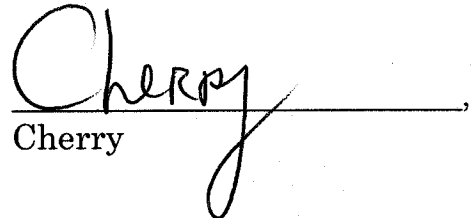
no indication that the district court was without jurisdiction to impose a sentence upon appellant. Appellant may not challenge the validity of his guilty plea in a motion to correct an illegal sentence. Therefore, we affirm the order of the district court.

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.⁶ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Michelle Leavitt, District Judge
Marrio Qunta Moreland
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

⁶See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).