

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN KEITH PAAJANEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48463

FILED

JUL 24 2007

BY *[Signature]*
W. BETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND AND
VACATING SPECIAL SENTENCE OF LIFETIME SUPERVISION

This is a proper person appeal from an order of the district court denying appellant's motion to vacate an illegal sentence. Eighth Judicial District Court, Clark County; Jennifer Togliatti, Judge.

On August 20, 2001, the district court convicted appellant, pursuant to a guilty plea, of four counts of possession of visual presentation depicting sexual conduct of a person under 16 years of age. The district court sentenced appellant to serve three concurrent terms of 12 to 30 months in the Nevada State Prison and one consecutive term of 12 to 30 months. Appellant did not file a direct appeal.

On October 31, 2006, appellant filed a proper person motion to vacate an illegal sentence in the district court. The State opposed the motion. On November 27, 2006, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended that the imposition of lifetime supervision was "patently illegal." Appellant claimed that he was never informed that he would be subject to a special sentence of lifetime supervision and there was no indication that lifetime supervision "was even a consideration in the case." Appellant filed his motion pursuant to NRS 176.555 and sought correction of his sentence. We therefore conclude

the district court did not err in treating appellant's motion as a motion to correct an illegal sentence.

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 appellant pleaded guilty and was convicted in this matter pursuant to NRS 200.730(1).³ Former NRS 176.113 provided that a special sentence of lifetime supervision shall be imposed upon an individual convicted under NRS 200.730(2), but did not provide for imposition of a special sentence of lifetime supervision for an individual convicted under NRS 200.730(1).⁴ Imposition of the special sentence of lifetime supervision was therefore improper and appellant's sentence is facially illegal. We therefore conclude that the district court erred by denying appellant's motion, and we reverse the denial of appellant's motion. Further, because the special sentence of lifetime supervision was improperly imposed, we vacate the

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)).

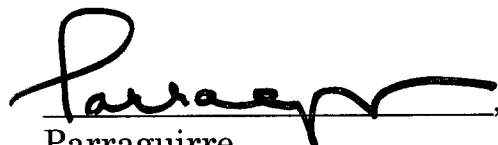
³See 1995 Nev. Stat., ch. 443, § 388, at 1337-38.

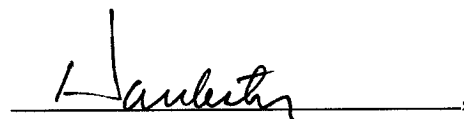
⁴1997 Nev. Stat., ch. 451, § 85, at 1671.

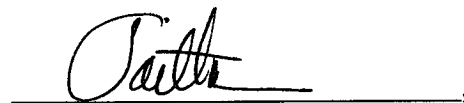
special sentence of lifetime supervision and remand this matter to the district court for entry of an amended judgment of conviction that removes the special sentence of lifetime supervision.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that briefing and oral argument are unwarranted.⁵ Accordingly, we

ORDER the judgment of the district court REVERSED, VACATE THE SPECIAL SENTENCE OF LIFETIME SUPERVISION, AND REMAND this matter to the district court for proceedings consistent with this order.⁶


Parraguirre, J.


Hardesty, J.


Saitta, J.

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

⁶We have considered all proper person documents filed or received in this matter. We conclude that appellant is only entitled to the relief described herein. This order constitutes our final disposition of this appeal. Any subsequent appeal shall be docketed as a new matter.

cc: Hon. Jennifer Togliatti, District Judge
Steven Keith Paajanen
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk