

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER WILLIAM DENHARDT  
A/K/A CHRISTOPHER DENHARDT,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 48699

**FILED**

**MAY 22 2007**

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

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Christopher William Denhardt's motion to correct an illegal sentence. Eighth Judicial District Court, Clark County; Michael A. Cherry, Judge.

The district court convicted Denhardt, pursuant to a guilty plea, of one count of burglary. The district court adjudicated Denhardt a habitual criminal and sentenced him to serve a prison term of 5 to 20 years. We dismissed Denhardt's direct appeal at his request.<sup>1</sup> Thereafter, he filed a motion to correct an illegal sentence. The State opposed the motion and, after a brief hearing, the district court denied the motion.<sup>2</sup> This appeal follows.

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<sup>1</sup>Denhardt v. State, Docket No. 44405 (Order Dismissing Appeal, November 28, 2005).

<sup>2</sup>Although this court has elected to file the fast track statement and appendix submitted by Denhardt, we note that the appendix did not contain the judgment of conviction, Denhardt's motion to correct an illegal

*continued on next page . . .*

Denhardt contends that the district court erred by not making an affirmative showing on the record that he was represented by counsel during each of his prior convictions and by failing to sentence him for the "substantive crime charged in the principal case" before invoking "the recidivist statute to determine the penalty."<sup>3</sup>

A motion to correct an illegal sentence may only challenge the facial legality of the sentence, alleging that either the district court was without jurisdiction to impose a sentence or that the sentence imposed was in excess of the statutory maximum.<sup>4</sup> Here, the district court had jurisdiction to adjudicate Denhardt a habitual criminal,<sup>5</sup> and the sentence that it imposed did not exceed the statutory maximum.<sup>6</sup> Accordingly, the

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*... continued*

sentence, or the State's opposition to the motion to correct an illegal sentence. See NRAP 3C(e)(2); NRAP 30(b)(3). Counsel is cautioned that failure to comply with these requirements in the future may result in the imposition of sanctions by this court. NRAP 3C(n).

<sup>3</sup>Denhardt cites to Burns v. State, 88 Nev. 215, 495 P.2d 602 (1972).

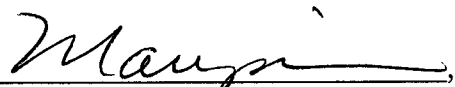
<sup>4</sup>Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

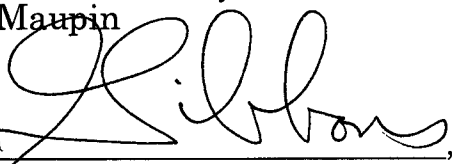
<sup>5</sup>See Nev. Const. art. 6, § 6; Kimball v. State, 100 Nev. 190, 191, 678 P.2d 675, 676 (1984) (stating that "[t]he original jurisdiction of the district court is in fact limited to felonies and gross misdemeanors").

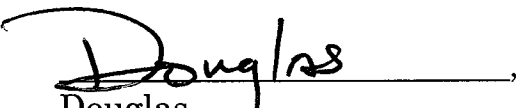
<sup>6</sup>See NRS 207.010(1) (prescribing the punishments for habitual criminals, which range from a minimum of 5 years imprisonment to a maximum of life imprisonment without the possibility of parole).

district court did not err in denying Denhardt's motion to correct an illegal sentence, and we

ORDER the judgment of the district court AFFIRMED.

  
Maupin C.J.

  
Gibbons J.

  
Douglas J.

cc: Eighth Judicial District Court Dept. 17, District Judge  
Kirk T. Kennedy  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk