

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMIE PHILLIS HOYT A/K/A JAMIE
HOYT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48770

FILED

MAY 31 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 of appellant's motion to modify or correct an illegal sentence. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge.

On June 29, 2006, the district court convicted appellant, pursuant to a guilty plea, of burglary. The district court sentenced appellant to serve a sentence of 14 to 48 months in the Nevada State Prison. The district court suspended the sentence and placed appellant on probation for a term not to exceed three years. On October 19, 2006, the district court revoked the term of probation and imposed the suspended sentence. Appellant did not file a direct appeal.

On November 9, 2006, appellant filed a proper person "Motion to Vacate Judgment & Sentence" in the district court. The State opposed the motion. On February 9, 2007, the district court denied appellant's motion. This appeal followed.

In her motion, appellant contended that (1) both she and the justice system would be better served if she were in a drug treatment facility; (2) she was aiding the police in drug and homicide investigations;

(3) she needed to care for her seven children; and (4) she needed to visit her terminally ill mother.

A motion to modify a sentence "is limited in scope to sentences based on mistaken assumptions about a defendant's criminal record which work to the defendant's extreme detriment."¹ A motion to modify a sentence that raises issues outside the very narrow scope of issues permissible may be summarily denied.² In addition, 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.³ "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.'"⁴

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 very narrow scope of claims permissible in either a motion to modify or a motion to correct an illegal sentence. Appellant did not demonstrate that her sentence was based on mistaken assumptions about her criminal record. Moreover, appellant failed to demonstrate that her sentence was facially illegal or that the district court was without

¹Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

²Id. at 708-09 n.2, 918 P.2d at 325 n.2.


³Id. at 708, 918 P.2d at 324.

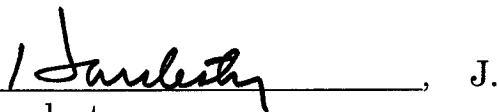
⁴Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).

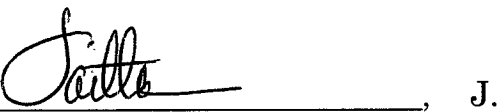
jurisdiction to sentence her in the instant case.⁵ Therefore, we affirm the order of the district court.

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.
Parraguirre


_____, J.
Hardesty


_____, J.
Saitta

cc: Hon. Stewart L. Bell, District Judge
Jamie Phillis Hoyt
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

⁵See NRS 205.060(2).

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