


IN THE SUPREME COURT OF THE STATE OF NEVADA

RAYMOND EARL WILKINS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49153

FILED

AUG 14 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's motion to vacate an illegal sentence. Ninth Judicial District Court, Douglas County; David R. Gamble, Judge.

On September 17, 1985, the district court convicted appellant, pursuant to a guilty plea, of two counts of robbery with the use of a deadly weapon, two counts of burglary, two counts of false imprisonment with the use of a deadly weapon, and one count of grand larceny. The district court sentenced appellant to serve multiple consecutive terms totaling 102 years in the Nevada State Prison. This court dismissed appellant's appeal from his judgment of conviction and sentence.¹ Appellant unsuccessfully sought post-conviction relief.²

On August 11, 2006, appellant filed a proper person motion to vacate an illegal sentence in the district court. The State opposed the motion, and appellant filed a reply. On March 7, 2007, the district court denied appellant's motion. This appeal followed.

¹Wilkins v. State, Docket No. 16883 (Order Dismissing Appeal, December 28, 1986).

²Wilkins v. State, Docket No. 19322 (Order Dismissing Appeal, July 26, 1989).

In his motion, appellant contended that one of his convictions and sentences for robbery with the use of a deadly weapon and his conviction and sentence for grand larceny were illegal because they were redundant and cumulative to the other conviction for robbery with the use of a deadly weapon. Appellant also contended that one of his convictions and sentences for burglary and both of his convictions and sentences for false imprisonment with the use of a deadly weapon were illegal because they were lesser included offenses of robbery with the use of a deadly weapon. Finally, appellant contended that his conviction and sentence for one of his burglary counts was illegal because this crime was not related to the other crimes and should have been charged in a separate charging document.

A motion to correct or vacate 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 by denying appellant's motion. Appellant's claims challenged the validity of his conviction and, therefore, fell outside the scope of claims permissible in a motion to correct or vacate an illegal

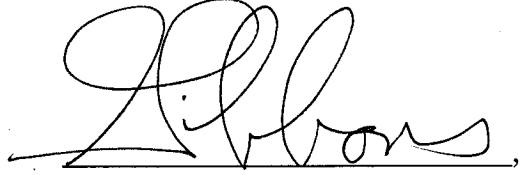
³Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

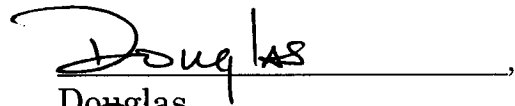
⁴Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).

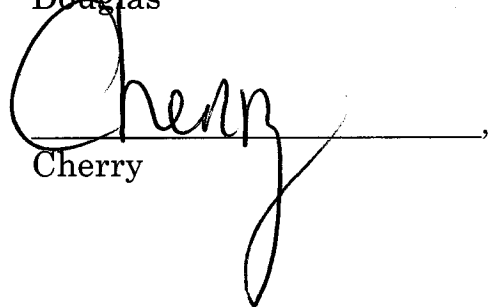
sentence. Additionally, appellant's sentences were facially legal.⁵ Finally, there is nothing in the record to indicate that the district court was without jurisdiction to impose the sentences. Accordingly, we affirm the order of the district court.

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.⁷


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

⁵See 1967 Nev. Stat., ch. 211, § 59 at 470-71 (NRS 200.380); 1981 Nev. Stat., ch. 780, § 1 at 2050 (NRS 193.165); 1981 Nev. Stat., ch. 335, § 2 at 614 (NRS 200.460); 1983 Nev. Stat., ch. 294, § 1 at 717-18 (NRS 205.060); 1983 Nev. Stat., ch. 244, § 1 at 546-47 (NRS 205.220).

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

⁷We 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. David R. Gamble, District Judge
Raymond Earl Wilkins
Attorney General Catherine Cortez Masto/Carson City
Douglas County District Attorney/Minden
Douglas County Clerk