


IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHNNY HUGHES WALKER, JR.
A/K/A JOHNNY H. WALKER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49693

FILED

JAN 08 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a motion to vacate, modify and correct sentence. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

On May 5, 2000, the district court convicted appellant, pursuant to a jury verdict, of one count of first degree murder with the use of a deadly weapon. The district court sentenced appellant to serve two consecutive terms of life in the Nevada State Prison with the possibility of parole after twenty years. This court affirmed the judgment of conviction on direct appeal.¹ Appellant unsuccessfully sought post-conviction relief by way of a post-conviction petition for a writ of habeas corpus.²

On May 11, 2007, appellant filed a proper person motion to vacate, modify and correct sentence in the district court. The State opposed the motion, and appellant filed a reply. On June 18, 2007, the district court denied appellant's motion. This appeal followed.

¹Walker v. State, Docket No. 36252 (Order of Affirmance, September 10, 2002).

²Walker v. State, Docket No. 43939 (Order of Affirmance, February 17, 2005).

In his motion, appellant contended that his conviction constituted a manifest injustice and was in violation of his due process rights because the State's case was weak and the State depended upon a jailhouse informant. Appellant offered a number of arguments as to why the testimony of the jailhouse informant should not have been allowed.

A motion to vacate or 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."³ 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.⁴ "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.'"⁵ A motion to vacate, modify or correct a sentence that raises issues outside the very narrow scope of issues permissible may be summarily denied.⁶

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. Appellant failed to demonstrate that the district court relied upon any mistakes about his criminal record that worked to his extreme detriment at sentencing.

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

⁴Id.


⁵Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).

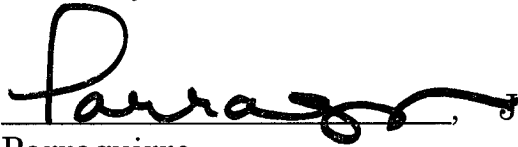
⁶Id. at 708-09 n.2, 918 P.2d at 325 n.2.

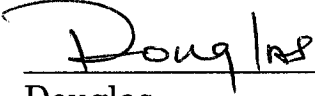
Appellant's sentence was facially legal, and appellant failed to demonstrate that the district court was not a competent court of jurisdiction.⁷ Therefore, we affirm the order of the district court.

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.⁸ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁹


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

⁷See 1995 Nev. Stat., ch. 443, § 44, at 1181 (NRS 200.030); 1995 Nev. Stat., ch. 455, § 1, at 1431 (NRS 193.165).

⁸See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁹We 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. Donald M. Mosley, District Judge
Johnny Hughes Walker Jr.
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk