


IN THE SUPREME COURT OF THE STATE OF NEVADA

RONNY LEE FAIN A/K/A KIM
MICHAEL FULLER A/K/A RONNY L.
TAYLOR,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49808

FILED

DEC 10 2007

JANE M. BLOOM
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from orders of the district court denying appellant's motions to correct an illegal sentence. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

On June 3, 1980, the district court convicted appellant, pursuant to a guilty plea, of second-degree murder. The district court sentenced appellant to serve a term of life in the Nevada State Prison with the possibility of parole. Appellant did not file a direct appeal.

On June 11, 2007, and June 21, 2007, appellant filed proper person motions to correct an illegal sentence in the district court. The State opposed the motions. On July 11, 2007, and August 15, 2007, the district court denied appellant's motions. This appeal followed.

In his motions, appellant claimed that his plea agreement had been breached and his sentence was illegal. Specifically, appellant argued that he pleaded guilty so he would "suffer no harm" from the dropped charges, but his plea was breached and he is suffering harm because NAC 213.520(2), which was enacted ten years after he entered his plea, allows the parole board to consider the dropped charges when considering him for parole. Appellant also argued that NRS 200.020 was improperly cited in

his judgment of conviction because the district court did not make a finding of malice at the plea canvass. Appellant asserted that the reference to NRS 200.020 in his judgment of conviction and the Board's application of NAC 213.520(2) to him have delayed his ability to obtain parole, and therefore, have rendered his sentence illegal. Appellant also asserted that his sentence was illegal because the district court failed to enhance his sentence under NRS 193.165. Finally, appellant asserted that his sentence was illegal because based on the plea colloquy he could have only been sentenced for manslaughter.

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 the district court did not err in denying appellant's motions. Appellant failed to demonstrate that the district court was not a court of competent jurisdiction. Additionally, appellant's sentence fell within the statutory limits.³ Contrary to appellant's assertion, appellant was not convicted of

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

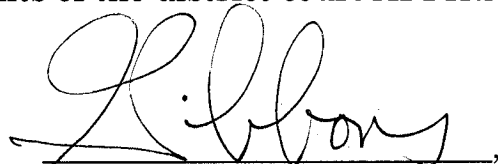
²Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).

³See 1977 Nev. Stat., ch. 598, § 5, at 1627-28 (NRS 200.030).

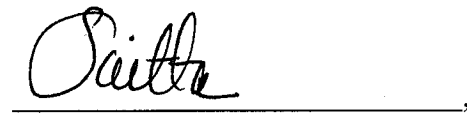
second-degree murder with the use of a deadly weapon. The record indicates that pleaded guilty to second-degree murder, and the deadly weapon enhancement was dropped as part of the plea agreement. Therefore, NRS 193.165 did not apply to appellant and could not be used to enhance his sentence. Appellant's remaining claims fell outside the scope of claims permissible in a motion to correct an illegal sentence. Therefore, we affirm the district court's denial of appellant's motions.

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.⁴ Accordingly, we

ORDER the judgments of the district court AFFIRMED.⁵


_____, J.
Gibbons


_____, J.
Hardesty


_____, J.
Saitta

⁴See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁵We 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. Michelle Leavitt, District Judge
Ronny Lee Fain
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk