

IN THE SUPREME COURT OF THE STATE OF NEVADA

LOREN MAURICE JONES A/K/A  
LOREN DEJAUN JONES,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 50088

**FILED**

MAR 17 2008

ORDER OF AFFIRMANCE

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

This is a proper person appeal from an order of the district court denying appellant's motion to correct an illegal sentence. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

On November 4, 2003, the district court convicted appellant, pursuant to a guilty plea, of one count of possession of a controlled substance (a felony). The district court sentenced appellant to serve a term of 12 to 34 months in the Nevada State Prison. The district court suspended the sentence and placed appellant on probation for a period not to exceed 24 months. On February 7, 2006, the district court entered an order revoking probation and causing appellant to begin serving the original sentence. No direct appeal was taken.

On March 13, 2007, appellant filed a proper person motion to correct an illegal sentence in the district court. On July 25, 2007, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended that he should not have been convicted of and sentenced to a felony level violation of NRS 453.336 because this conviction involved a first offense of not more than one ounce of marijuana. Appellant claimed that a first offense involving the possession of not more than one ounce of marijuana is a misdemeanor

offense punishable by a fine not to exceed \$600 or examination and possible assignment to a drug treatment program.

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.<sup>1</sup> “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.’”<sup>2</sup>

Our review of the record on appeal reveals that the district court did not err in denying the motion. Appellant entered a guilty plea to a Category E felony level violation of NRS 453.336. Thus, appellant’s sentence was facially legal.<sup>3</sup> Notably, at the time that appellant committed his crime, the sentence for a first offense possession of less than one ounce of marijuana was a Category E felony.<sup>4</sup> Appellant further failed to demonstrate that the district court was not a competent court of

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

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

<sup>3</sup>See 1999 Nev. Stat., ch. 404, § 13, at 1917 (NRS 453.336).

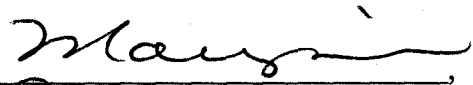
<sup>4</sup>Id.

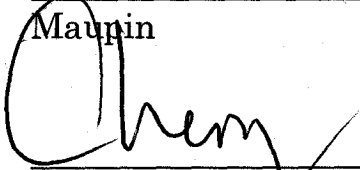
In 2001, the legislature amended NRS 453.336 to provide that a first time offender who possesses less than one ounce of marijuana was guilty of a misdemeanor offense. See 2001 Nev. Stat., ch. 592, § 37, at 3067-68. However, this amendment did not apply to offenses committed before October 1, 2001. See 2001 Nev. Stat., ch. 592, § 49, at 3074.

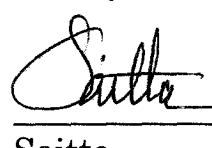
jurisdiction. Therefore, we affirm the order of the district court denying appellant's motion to correct an illegal sentence.

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.<sup>5</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

cc: Hon. Janet J. Berry, District Judge  
Loren Maurice Jones  
Attorney General Catherine Cortez Masto/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk

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<sup>5</sup>See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).