

IN THE SUPREME COURT OF THE STATE OF NEVADA

DARRYL ANTHONY WILLIAMS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50266

FILED

AUG 29 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

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; Brent T. Adams, Judge.

On January 11, 2002, the district court convicted appellant, pursuant to a guilty plea, of robbery with the use of a firearm. The district court sentenced appellant to serve two equal and consecutive terms of 72 to 180 months in the Nevada State Prison. This court affirmed the judgment of conviction on appeal.¹

On December 7, 2004, appellant filed a proper person motion to correct an illegal sentence in the district court. On March 2, 2006, the district court denied appellant's motion. This court dismissed appellant's appeal from the district court's order as untimely.²

¹Williams v. State, Docket No. 39177 (Order of Affirmance, May 9, 2002).

²Williams v. State, Docket No. 47228 (Order Dismissing Appeal, June 12, 2006).

On November 8, 2006, appellant filed a proper person motion to correct an illegal sentence in the district court. On September 11, 2007, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended that his sentence was unconstitutionally enhanced as no finding was made by a jury that he had used a deadly weapon in the commission of a crime and other aggravating factors were not presented to a jury. Appellant relied on Apprendi v. New Jersey³ and its progeny.

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

Our review of the record on appeal reveals that the district court did not err in denying appellant's motion. Appellant's sentence was facially legal,⁶ and there is no indication that the district court was not a competent court of jurisdiction. Moreover, as a separate and independent

³530 U.S. 466 (2000).

⁴Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

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

⁶See NRS 200.380; 1995 Nev. Stat., ch. 455, § 1, at 1431 (NRS 193.165).


ground to deny relief, appellant's claims were without merit. Appellant pleaded guilty to robbery with the use of a deadly weapon, and appellant admitted to the facts supporting the deadly weapon enhancement. Thus, the district court properly imposed the deadly weapon enhancement.⁷ Therefore, the district court did not err in denying appellant's motion.

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.

 J.

Maupin

 J.

Cherry

 J.

Saitta

⁷See Blakely v. Washington, 542 U.S. 296, 303 (2004) (stating that precedent makes it clear that the statutory maximum that may be imposed is “the maximum sentence a judge may impose solely on the basis of the facts reflected in the jury verdict or admitted by the defendant”) (emphasis in original)).

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

cc: Hon. Brent T. Adams, District Judge
Darryl Anthony Williams
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk