

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIE EDWARD BROWN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 50724

**FILED**

JAN 22 2009

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a motion to correct an illegal sentence. Eighth Judicial District Court, Clark County; James M. Bixler, Judge.

On May 5, 2006, the district court convicted appellant, pursuant to a jury verdict, of one count of conspiracy to commit robbery and one count of robbery. The district court adjudicated appellant a habitual criminal and sentenced appellant to serve concurrent terms of 60 to 240 months in the Nevada State Prison. This court affirmed appellant's judgment of conviction and sentence on direct appeal, but remanded for correction of a clerical error. Brown v. State, Docket No. 47473 (Order Affirming and Remanding to Correct Judgment of Conviction, March 14, 2007). The remittitur issued on April 10, 2007. Appellant unsuccessfully sought relief from his judgment of conviction by way of a post-conviction petition for a writ of habeas corpus. Brown v. State, Docket No. 50308 (Order of Affirmance, October 3, 2008).

On October 29, 2007, appellant filed a proper person motion to correct an illegal sentence in the district court. The State opposed the

motion. On January 14, 2008, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended that the habitual criminal enhancement was illegal because the State failed to present a certified copy of the judgment of conviction in district court case number C162900. Appellant claimed that he was incarcerated in 2006 at the time of the alleged conviction. Appellant further claimed that the documents presented did not demonstrate that he was represented by counsel in the proceedings in district court case number C162900.

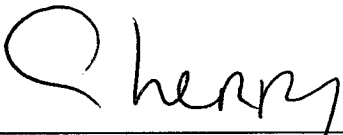
A motion to correct an illegal sentence may only challenge the facial legality of the sentence: either the district court was without jurisdiction to impose a sentence or the sentence was imposed in excess of the statutory maximum. Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). "A motion 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.'" Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).


Our review of the record on appeal reveals that the district court did not err in denying appellant's motion. As appellant's claims challenge alleged errors that occurred at the sentencing hearing, appellant's claims fell outside the very narrow scope of claims permissible in a motion to correct an illegal sentence. Appellant's sentence was facially legal, and appellant failed to demonstrate that the district court was not a competent court of jurisdiction. NRS 207.010(1)(a). The record on appeal contains a certified copy of the judgment of conviction in district court case number C162900 and the supporting documents indicate that appellant was represented by counsel in those proceedings. Further,


appellant's claim challenging the validity of the judgment of conviction in district court case number C162900 was not properly litigated in the motion to correct an illegal sentence in the instant case and was facially flawed as the judgment of conviction in district court case number C162900 was entered in 2000 not 2006 as alleged by appellant.

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

ORDER the judgment of the district court AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. James M. Bixler, District Judge  
Willie Edward Brown  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk