

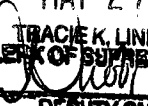
IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT LAWRENCE REED,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 51933

FILED

ORDER OF AFFIRMANCE

MAY 27 2009
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 Robert Reed's "motion to correct judgment." Second Judicial District Court, Washoe County; Robert H. Perry, Judge.

On July 7, 1995, the district court convicted appellant of one count of first-degree murder with the use of a deadly weapon by way of a guilty plea pursuant to North Carolina v. Alford. 400 U.S. 25 (1970). The district court sentenced appellant to serve two consecutive terms of life in the Nevada State Prison with the possibility of parole. No direct appeal was taken. Appellant unsuccessfully sought relief from his conviction by way of a post-conviction petition for a writ of habeas corpus and a motion for sentence modification. Reed v. Warden, Docket No. 48218 (Order of Affirmance, February 8, 2007); Reed v. Warden, Docket No. 31786 (Order of Affirmance, January 18, 2001).

On February 25, 2008, appellant filed a proper person "motion to correct judgment" in the district court. The State opposed the motion. On May 15, 2008, appellant filed a motion to appoint counsel. The district court denied both of appellant's motions on May 23, 2008. This appeal followed.

In his motion, appellant claimed that the judgment of conviction, and therefore his underlying sentence, was illegal. 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).

Appellant's judgment of conviction was entered in 1995. At that time, NRS 176.105 set for the guidelines for a valid judgment of conviction:

1. If a defendant is found guilty and is:

[...]

(b) Sentenced as provided by law, the judgment of conviction must set forth:

(1) The plea;

(2) The verdict or finding;

(3) The adjudication and sentence, including the date of the sentence, any term of imprisonment, the amount and terms of any fine, restitution or administrative assessment, a reference to the statute under which the defendant is sentenced and, if necessary to determine eligibility for parole, the applicable provision of the statute; and

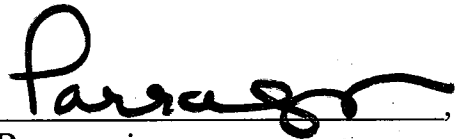
(4) The exact amount of credit granted for time spent in confinement before conviction, if any.

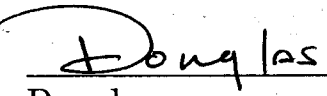
1993 Nev. Stat., ch. 46, § 1, at 78 (emphasis added). Appellant's judgment of conviction stated only that appellant "is guilty of the crime of Murder in the First Degree With the Use of a Deadly Weapon as charged in Count I of the Information." Thus, appellant argued that because the judgment of conviction failed to recite the specific numerical statute under which he was sentenced, the judgment of conviction and sentence were facially invalid under NRS 176.105(b)(3). We disagree. First, any deficiencies pursuant to NRS 176.105 in the judgment of conviction would not render

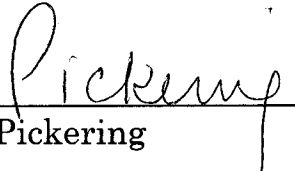
the judgment of conviction facially illegal. Second, the language of NRS 176.105(b)(3) did not specifically require a citation to the statute number; it required only a reference to the statute under which appellant was sentenced. The phrase "Murder in the First Degree With the Use of a Deadly Weapon" clearly references the applicable statutes. In addition, we note that the judgment of conviction also incorporated "Count I of the Information" by reference. The specific statute numbers were clearly listed in the information. 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. 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.
Parraguirre


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Robert H. Perry, District Judge
Robert Lawrence Reed
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk