

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHNNY HUGHES WALKER, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52034

FILED

ORDER OF AFFIRMANCE

MAR 05 2009
TRACEY L. LINDEMAN
CLERK OF SUPREME COURT
BY [Signature]
DEPUTY CLERK

This is a proper person appeal from an order of the district court denying a “motion for modification of sentence pursuant to NRS 176.033 and 176A.450 and 176.555.” Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

On May 5, 2000, the district court convicted appellant, pursuant to a jury verdict, of one count of first-degree murder with the use of a deadly weapon. The district court sentenced appellant to serve two consecutive terms of life in the Nevada State Prison with the possibility of parole after twenty years. This court affirmed the judgment of conviction on direct appeal. Walker v. State, Docket No. 36252 (Order of Affirmance, September 10, 2002). The remittitur issued on November 8, 2002.

On September 26, 2003, appellant filed a post-conviction petition for a writ of habeas corpus in the district court. On September 15, 2004, the district court denied the petition. This court affirmed the order

of the district court on appeal. Walker v. State, Docket No. 43939 (Order of Affirmance, February 17, 2005).

On May 11, 2007, appellant filed a proper person motion to vacate, modify and correct sentence in the district court. On June 18, 2007, the district court denied appellant's motion. This court affirmed the order of the district court on appeal. Walker v. State, Docket No. 49693 (Order of Affirmance, January 8, 2008).

On June 21, 2008, appellant filed a proper person "motion for modification of sentence pursuant to NRS 176.033 and 176A.450 and 176.555." The State opposed the motion. On July 29, 2008, the district court denied the motion. This appeal followed.

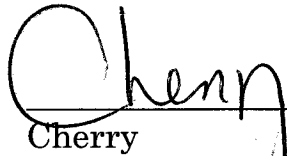
In his motion, appellant claimed as follows: that his prior bad acts should not have been admitted during the trial, that prior bad acts committed by his co-defendant should not have been admitted at trial, that the State did not prove that he had the motive to commit murder, that the jury applied the instructions in a way that violated his due process rights, that his conviction was a violation of due process, that he was convicted based solely on the false testimony of one witness, that the jury instructions did not require the State to prove every element of first-degree murder beyond a reasonable doubt, that he was prejudiced by evidence used against a co-defendant, that the DNA evidence used at trial "had to deal with someone else," and that the State elicited improper testimony.


A motion to modify a sentence “is limited in scope to sentences based on mistaken assumptions about a defendant's criminal record which work to the defendant's extreme detriment.” Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). 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. Id. “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)). A motion to modify or correct a sentence that raises issues outside the very narrow scope of issues permissible may be summarily denied. Id. at 708-09 n.2, 918 P.2d at 325 n.2.


Our review of the record on appeal reveals that the district court did not err in denying appellant's motion. Appellant's claims fell outside the very narrow scope of claims permissible. Appellant failed to demonstrate that the district court relied upon any mistakes about his criminal record that worked to his extreme detriment at sentencing. Appellant's sentence was facially legal, and appellant failed to demonstrate that the district court was not a competent court of jurisdiction. See 1995 Nev. Stat., ch. 443, § 44, at 1181-82 (NRS 200.030); 1995 Nev. Stat., ch. 455, § 1, at 1431 (NRS 193.165). 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.¹

 _____, J.
Cherry

 _____, J.
Saitta

 _____, J.
Gibbons

¹We 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. Donald M. Mosley, District Judge
Johnny Hughes Walker, Jr.
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk