

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONNY COOPER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52143

FILED

OCT 22 2009

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

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Donny Cooper's motion to correct an illegal sentence. Eighth Judicial District Court, Clark County; Jennifer Togliatti, Judge.

The district court convicted Cooper, pursuant to a guilty plea, of attempted lewdness with a child under the age of 14. The district court sentenced Cooper to serve a term of 38 to 96 months in the Nevada State Prison and imposed a special sentence of lifetime supervision. This court affirmed the judgment of conviction and sentence on direct appeal. Cooper v. State, Docket No. 37614 (Order of Affirmance, November 1, 2001). The remittitur issued on November 27, 2001.

On January 28, 2008, Cooper filed a motion to correct an illegal sentence in the district court. The State opposed the motion, and Cooper filed a reply to the opposition. After conducting a hearing on Cooper's motion, the district court denied the motion. This appeal followed.

Cooper argues that the district court erred by denying his motion to correct an illegal sentence.

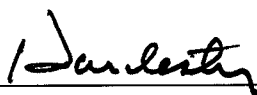
A motion to correct an illegal sentence may only challenge the facial legality of the sentence: either the district court was without jurisdiction to impose a sentence or the sentence was imposed in excess of the statutory maximum. Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). “A motion 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)).

In his motion to correct an illegal sentence, Cooper argued that his guilty plea was invalid because he was not informed of the material terms and conditions of lifetime supervision when he entered his guilty plea. Cooper further argued that because his guilty plea was invalid, lifetime supervision constitutes an illegal sentence.

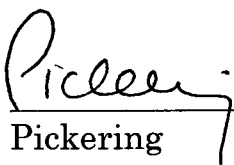
Cooper’s claim fell outside the narrow scope of claims permitted in a motion to correct an illegal sentence. Additionally, Cooper’s sentence is facially legal and nothing in the record indicates that the district court lacked jurisdiction to impose the sentence. Finally, we note that Cooper acknowledges that he was informed in the guilty plea agreement that he would be subject to lifetime supervision, and therefore he cannot demonstrate that his guilty plea was invalid on this basis. See Palmer v. State, 118 Nev. 823, 831, 59 P.3d 1192, 1197 (2002) (holding that this court will not invalidate a guilty plea if the totality of the circumstances indicate that the defendant was aware of the consequence of lifetime supervision prior to entry of the guilty plea). Accordingly, we

conclude that the district court did not err by denying Cooper's motion,
and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Hardesty


_____, J.
Parraguirre


_____, J.
Pickering

cc: Hon. Jennifer Togliatti, District Judge
Kirk T. Kennedy
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk