

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN PAUL SPEIDEL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52259

FILED

DEC 30 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 a motion to correct an illegal sentence. Eighth Judicial District Court, Clark County; Sally L. Loehrer, Judge.

On November 17, 2006, the district court convicted appellant, pursuant to a guilty plea, of one count of burglary. The district court adjudicated appellant a habitual criminal and sentenced appellant to serve a term of 96 to 240 months in the Nevada State Prison. No direct appeal was taken. Appellant unsuccessfully sought relief from his conviction by way of a motion to vacate or modify sentence.¹

¹Speidel v. State, Docket No. 50931 (Order of Affirmance, August 4, 2008).

On June 30, 2008, appellant filed a proper person motion to correct an illegal sentence in the district court. The State opposed the motion, and appellant filed a response. On July 31, 2008, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended that the habitual criminal sentence was suspect, impalpable, and impermissible. Appellant claimed that his stipulation to be treated as a habitual criminal was unlawful. Appellant further claimed that the alleged prior convictions were not properly submitted by the State, and he was not apprised of his right to deny the prior convictions, have a hearing on the prior convictions, the State's burden of proof regarding the prior convictions, and what types of prior convictions could be used. Finally, he claimed that the Florida convictions were stale and trivial, and the district court improperly relied upon convictions that did not precede the offense in this case.

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.² "A motion to correct an illegal sentence presupposes a valid conviction and may not, therefore, be used to

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

challenge alleged errors in proceedings that occur prior to the imposition of sentence.”³ A motion to correct an illegal sentence cannot be used to correct alleged errors occurring at sentencing.⁴

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 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.⁵ This court has previously considered and rejected appellant’s challenge to his habitual criminal adjudication in the appeal involving his motion to vacate or modify sentence. The doctrine of the law of the case prevents further litigation of this issue and cannot be avoided by a more detailed and precisely focused argument.⁶ Therefore, we affirm the order of the district court.

³Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).

⁴Id.

⁵NRS 207.010(1)(a).

⁶Hall v. State, 91 Nev. 314, 535 P.2d 797 (1975).

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.⁷ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁸

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Douglas, J.
Douglas

⁷See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁸We 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. Sally L. Loehrer, District Judge
Steven Paul Speidel
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk