

IN THE SUPREME COURT OF THE STATE OF NEVADA

CARL L. WILLIAMS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52380

FILED

MAR 12 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; Kenneth C. Cory, Judge.

On February 25, 2004, the district court convicted appellant, pursuant to a jury verdict, of one count of conspiracy to commit robbery, one count of possession of a stolen vehicle, one count of burglary while in possession of a firearm, four counts of second-degree kidnapping with the use of a deadly weapon, one count of robbery with the use of a deadly weapon, and one count of failure to stop on a signal of a police officer. Subsequently, appellant entered a guilty plea to one count of robbery with the use of a deadly a weapon. The district court entered an amended judgment of conviction, in which appellant was sentenced to serve a total of two consecutive terms of 72 to 180 months in the Nevada State Prison. This court affirmed the judgment of conviction on appeal. Williams v. State, Docket No. 43044 (Order of Affirmance, November 15, 2004). Appellant unsuccessfully sought post-conviction relief by way of a post-conviction petition for writ of habeas corpus and by way of a motion for sentence modification. Williams v. State, Docket No. 50727 (Order of

Affirmance, April 18, 2008) and Williams v. State, Docket No. 46507 (Order of Affirmance, August 8, 2006).

On July 15, 2008, appellant filed a proper person motion to correct an illegal sentence. The State opposed the motion. On August 13, 2008, the district court denied the motion. This appeal followed.

In his motion, appellant contended that trial counsel was ineffective because he failed to zealously pursue a direct appeal and did not help him file a petition for a writ of habeas corpus, failed to adequately consult with appellant regarding his right to jury determination on the deadly weapon enhancement, and failed to provide mitigating evidence at sentencing. In addition, appellant claimed that the district court failed to adequately canvass appellant regarding his right to have a jury determine the facts of the deadly weapon enhancement before sentencing.

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)).

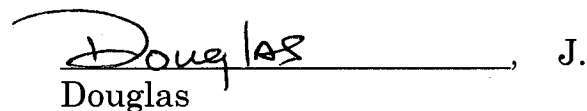
Based upon our review of the record on appeal, we conclude that appellant's requests fell outside the narrow scope of claims permissible in a motion to correct an illegal sentence. Appellant's sentence was facially legal. See NRS 199.480, NRS 200.380, NRS 205.273, NRS 205.060, NRS 200.310, NRS 200.330, NRS 484.348, and NRS 193.165. Further, there is nothing in the record indicating that the

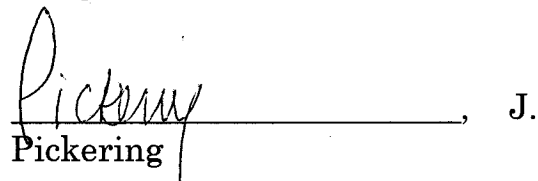
district court was without jurisdiction to impose a sentence in this case. Therefore, we affirm the order of the district court.

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, we¹

ORDER the judgment of the district court AFFIRMED.


Parraguirre


Douglas


Pickering

cc: Hon. Kenneth C. Cory, District Judge
Carl L. Williams
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

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.