IN THE SUPREME COURT OF THE STATE OF NEVADA

ARTHUR JOSEPH BREWER, Appellant, vs. THE STATE OF NEVADA, Respondent.	No. 51587
ARTHUR J. BREWER, Appellant, vs. THE STATE OF NEVADA, Respondent.	No. 52585

FILED

MAR 12 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

Docket No. 51587 is a proper person appeal from an order of the district court denying a "motion to correct judgment and supporting points and authorities." Eighth Judicial District Court, Clark County; Lee A. Gates, Judge. Docket No. 52585 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; Valerie Adair, Judge. We elect to consolidate these appeals for disposition. See NRAP 3(b).

On August 14, 2006, the district court convicted appellant, pursuant to a guilty plea, of possession of a stolen vehicle. The district court adjudicated appellant a habitual criminal and sentenced him to

serve a term of 10 to 25 years in the Nevada State Prison. This court affirmed the judgment of conviction on appeal. Brewer v. State, Docket No. 48014 (Order of Affirmance, March 6, 2007). The remittitur issued on April 3, 2007.

On July 30, 2007, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. On September 26, 2007, the district court denied appellant's petition. This court affirmed the order of the district court on appeal. Brewer v. State, Docket No. 50377 (Order of Affirmance, August 12, 2008).

Docket No. 51587

On March 31, 2008, appellant filed a proper person "motion to correct judgment and supporting points and authorities." The State opposed the motion. On April 30, 2008, the district court denied the motion. This appeal followed.

In his motion, appellant claimed that the judgment of conviction was illegal because the State did not offer proper documentation of his previous convictions. Appellant argued the documentation was not proper because the judgments of conviction did not list the statute citations of the crimes he committed. Appellant claimed, therefore, that the district court could not properly determine that his past crimes were felonies.

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 the district court did not err in denying appellant's motion. Appellant's sentence was facially legal. See NRS 205.273; NRS 207.010. Further, there is nothing in the record indicating that the district court was without jurisdiction to impose a sentence in this case. The claims that appellant raised fell outside of the scope of claims permissible in a motion to correct an illegal sentence. Therefore, the district court did not err in denying the motion and we affirm the order of the district court.

Docket No. 52585

On September 16, 2008, appellant filed a proper person motion to correct an illegal sentence. The State opposed the motion. On October 15, 2008, the district court denied the motion. This appeal followed.

In his motion, appellant claimed the district court did not have jurisdiction to sentence him as a habitual criminal because the State failed to file an allegation of criminal habituality.

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)).

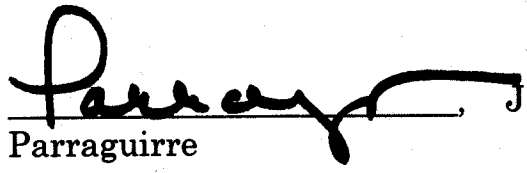
Based upon our review of the record on appeal, we conclude that the district court did not err in denying appellant's motion. As stated previously, appellant's sentence was facially legal. See NRS 205.273; NRS 207.010. The State filed an information charging appellant with possession of a stolen vehicle, which included notice of the State's intent to seek habitual criminal adjudication. The information included a list of appellant's past convictions. Also, in the guilty plea agreement, which appellant signed, the State reserved the right to argue that appellant be adjudicated as a habitual criminal. As such, appellant had notice of the State's intent to seek treatment of appellant as a habitual criminal. Thus, appellant failed to demonstrate that the district court was without jurisdiction to impose a sentence in this case. Therefore, the district court did not err in denying the motion and we affirm the order of the district court.

Conclusion

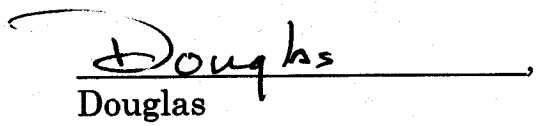
Having reviewed the records on appeal and for the reasons set forth above, we conclude that appellant is not entitled to relief and that

briefing and oral argument are unwarranted. See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975). Accordingly, we

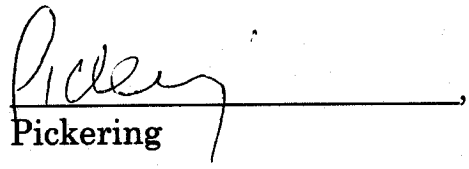
ORDER the judgments of the district court AFFIRMED.[1]



_____, J.
Parraguirre



_____, J.
Douglas



_____, J.
Pickering

cc: Eighth Judicial District Court Dept. 8, District Judge
Hon. Valerie Adair, District Judge
Arthur Joseph Brewer
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

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[1]We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in these matters, 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.