

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDWARD ERLY MORRISON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 52936

**FILED**

JUL 07 2009

ORDER OF AFFIRMANCE

TRACE K. LINDEMAN  
CLERK OF SUPREME COURT  
*[Signature]*  
DEPUTY CLERK

This is a proper person appeal from an order of the district court denying appellant Edward Morrison's motion to correct an illegal sentence. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

On February 25, 2005, the district court convicted appellant, pursuant to a jury trial, of burglary and petit larceny, and adjudicated appellant a habitual criminal pursuant to NRS 207.010(1). The district court sentenced appellant to serve concurrent terms of ten years to life for burglary, and five to twenty years for petit larceny in the Nevada State Prison. This court affirmed the judgment of conviction and sentence on appeal. Morrison v. State, Docket Number 44719 (Order of Affirmance, May 19, 2006). The remittitur issued on June 13, 2006. Appellant unsuccessfully sought post-conviction relief by way of a post-conviction petition for a writ of habeas corpus and a "First Amendment petition for writ of habeas corpus." Morrison v. State, Docket No. 52073 (Order of Affirmance, January 15, 2009); Morrison v. State, Docket No. 48341 (Order of Affirmance, May 31, 2007).

On November 17, 2008, appellant filed a motion to correct an illegal sentence, arguing that his sentence was improperly enhanced pursuant to NRS 207.010(1). The district court denied the motion on December 18, 2008. This appeal followed.

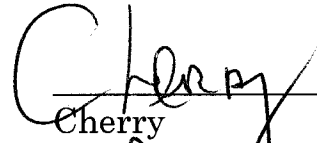
A motion to correct an illegal sentence may only challenge the facial legality of the sentence: either the district court was without jurisdiction to impose a sentence or the sentence was imposed in excess of the statutory maximum. Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). “A motion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

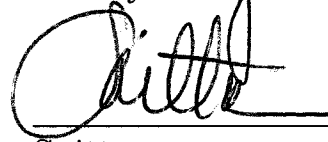
Our review of the record on appeal reveals that the district court did not err in denying appellant’s motion. NRS 207.010 provides that any felony offense or petit larceny offense may be subject to habitual criminal treatment with proof of the approved number of prior convictions. Appellant was sentenced pursuant to the enhancement provisions of NRS 207.010(1)(b)(2) for the burglary count and NRS 207.010(1)(a) for the petit larceny count. The sentences imposed were facially legal and appellant has failed to demonstrate that the district court was without jurisdiction to impose these sentences. To the extent appellant challenged the adequacy of the charging information, this claim was outside the scope of claims permissible in a motion to correct an illegal sentence. Therefore, the district court did not err in denying appellant’s motion.

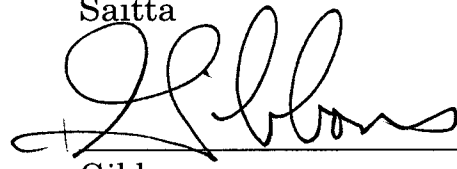
Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that

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.

 \_\_\_\_\_, J.  
Cherry

 \_\_\_\_\_, J.  
Saitta

 \_\_\_\_\_, J.  
Gibbons

cc: Hon. Valerie Adair, District Judge  
Edward Elry Morrison  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk