

IN THE SUPREME COURT OF THE STATE OF NEVADA

WAYNE COPELAND A/K/A WAYNE  
ALLISON COPELAND,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 53058

**FILED**

**JUL 28 2009**

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, reduce, or modify sentence.” Eighth Judicial District Court, Clark County; David B. Barker, Judge.

On March 17, 2004, the district court convicted appellant, pursuant to a guilty plea, of robbery with a deadly weapon. The district court sentenced appellant to serve two consecutive terms of 60 to 180 months in the Nevada State Prison. Appellant did not file a direct appeal.

On December 4, 2008, appellant filed a proper person motion to “correct, reduce or modify sentence.” The State opposed the motion. On January 7, 2009, the district court denied appellant’s motion. This appeal followed.

In his motion, appellant claimed that he was tricked and coerced into pleading guilty by his counsel because counsel misrepresented the sentence structure he was to receive. Appellant claimed that his

attorney told him that he faced a sentence of 2 to 5 years but instead he received two consecutive sentences of 5 to 15 years. Further, appellant claimed that the State overcharged him and that the State did not “qualify” and prove the deadly weapon enhancement.

“[A] motion to modify a sentence is limited in scope to sentences based on mistaken assumptions about a defendant’s criminal record which work to the defendant’s extreme detriment.” Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). 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. Id. “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)). A motion to modify or correct a sentence that raises issues outside the very narrow scope of issues permissible may be summarily denied. Id. at 708-09 n.2, 918 P.2d at 325 n.2.

To the extent that appellant’s motion may be construed as a motion to modify, appellant’s claims fell outside the narrow scope of claims permissible in a motion to modify sentence. Appellant failed to demonstrate that the district court relied upon a mistaken assumption about his criminal record that worked to his extreme detriment.

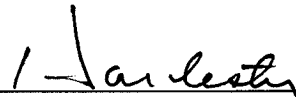
To the extent that appellant's motion may be construed as a motion to correct an illegal sentence, appellant's claims fell outside the narrow scope claims permissible in a motion to correct an illegal sentence. Appellant's sentence was facially legal. See NRS 200.380; 1995 Nev. Stat., ch. 455, § 1, at 1431. Further, there is nothing in the record indicating that the district court was without jurisdiction to impose a sentence in this case. Appellant entered a guilty plea, and appellant may not challenge the validity of the guilty plea in a motion to modify a sentence or in a motion to correct an illegal sentence. Therefore, the district court did not err in denying this motion.

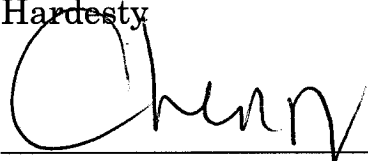
Moreover, as a separate and independent ground for denying relief, the district court had discretion to sentence appellant to a term between 2 and 15 years, and appellant's sentence fell within that range. See NRS 200.380. In regards to the sentence enhancement, appellant pleaded guilty to using a deadly weapon in the course of the robbery, and therefore, the district court properly applied the enhancement. Blakely v. Washington, 542 U.S. 296, 310 (2004). Therefore, the district court did not err in denying this 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).<sup>1</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Hardesty

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

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

cc: Hon. David B. Barker, District Judge  
Wayne Copeland  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk

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<sup>1</sup>We 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.