

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRIAN KEITH LASSETTER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53841

FILED

DEC 23 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Youner
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a motion to vacate an illegal sentence. Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

On November 14, 2005, the district court convicted appellant, pursuant to a guilty plea, of one count of attempted lewdness with a child under the age of 14. The district court sentenced appellant to serve a term of 48 to 144 months in the Nevada State Prison. The district court suspended the sentenced and placed appellant on probation for a term of 5 years. The district court further imposed the special sentence of lifetime supervision. No direct appeal was taken. On April 11, 2006, the district court revoked probation, executed the original sentence, and provided appellant with 147 days of credit for time served. No appeal was taken. Appellant unsuccessfully sought post-conviction relief by way of a post-conviction petition for a writ of habeas corpus. Lassetter v. State, Docket No. 49024 (Order of Affirmance, November 20, 2007).

On April 10, 2009, appellant filed a proper person motion to vacate an illegal sentence in the district court. The State opposed the

motion. On April 30, 2009, the district court denied appellant's motion. This appeal followed.

In his motion, appellant challenged the special sentence of lifetime supervision. Appellant claimed that it was unconstitutional in that it violated double jeopardy and the prohibition against cruel and unusual punishment. Appellant further claimed that the conditions of lifetime supervision violated a number of constitutional rights, including free speech.

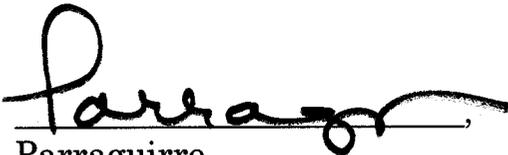
A motion to correct or vacate an illegal sentence may only challenge the facial legality of the sentence: either the district court was without jurisdiction to impose a sentence or the sentence was imposed in excess of the statutory maximum. Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).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

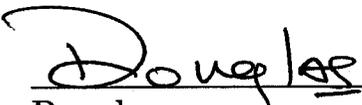
Our review of the record on appeal reveals that the district court did not err in denying the motion. The claims raised fell outside the very narrow scope of claims permissible in a motion to correct an illegal sentence. Appellant's sentence was facially legal. NRS 193.330(1)(a)(1); NRS 201.230(2). The district court was required to impose the special sentence of lifetime supervision in the instant case because appellant was convicted of attempted lewdness with a child. NRS 176.0931. Appellant's challenge to the specific conditions of lifetime supervision is not ripe because they have not been imposed, and in any event, the challenge cannot be raised in a motion to correct an illegal sentence. NRS 213.1243;

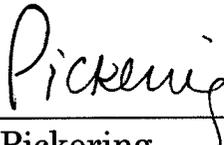
Palmer v. State, 118 Nev. 823, 827, 59 P.3d 1192, 1194-95 (2002).
Therefore, we affirm the order of the district court.

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, we

ORDER the judgment of the district court AFFIRMED.¹


Parraguirre J.


Douglas J.


Pickering J.

cc: Hon. Stefany Miley, District Judge
Brian Keith Lassetter
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.