

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL MYERS,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 34942

FILED

JUL 26 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's motion to correct an illegal sentence.

On April 24, 1997, the district court convicted appellant, pursuant to a guilty plea, of robbery. The district court sentenced appellant to serve a maximum term of 180 months with parole eligibility after 72 months in the Nevada State Prison, but suspended the sentence and placed appellant on probation for an indeterminate period not to exceed five years. On April 9, 1999, the district court revoked appellant's probation and executed his original sentence.

On August 19, 1999, appellant filed a proper person motion to correct an illegal sentence in the district court. The State opposed the motion. On September 8, 1999, the district court denied appellant's motion. This appeal followed.

01-12703

In his motion, appellant claimed: (1) his guilty plea was invalid because it was not made knowingly; (2) he received ineffective assistance of trial counsel; and (3) his conviction constituted a manifest injustice.

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 imposed was in excess of the statutory maximum.¹ "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."² Furthermore, motions to correct illegal sentences that raise issues beyond the scope of those recognized in Edwards "should be summarily denied."³

We conclude the district court did not err in denying appellant's motion. A motion to correct an illegal sentence is not the proper avenue to address appellant's contentions. The issues raised by appellant fell outside the very narrow scope of issues cognizable in these types of motions.⁴ There is no indication that the district court was

¹Edwards v. State, 112 Nev. 704, 707-08, 918 P.2d 321, 323-24 (1996).

²Id. at 708, 918 P.2d at 324 (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. Cir. 1985)).

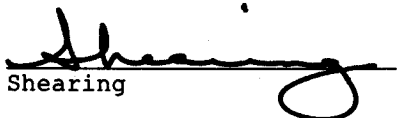
³Id. at 708-09 n.2, 918 P.2d at 325 n.2.

⁴Id. at 708, 918 P.2d at 324.

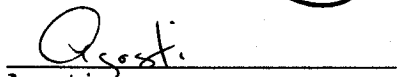
without jurisdiction, and appellant's sentence was facially legal.⁵ Moreover, appellant cannot use a motion to correct an illegal sentence as a way to circumvent the procedural time bar of NRS 34.726(1).

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.⁶ Accordingly, we

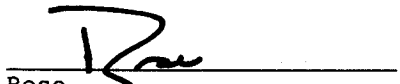
ORDER the judgment of the district court AFFIRMED.



Shearing J.



Agosti J.



Rose J.

cc: Hon. Kathy A. Hardcastle, District Judge
Attorney General
Clark County District Attorney
Michael Myers
Clark County Clerk

⁵See NRS 200.380(2).

⁶See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975), cert. denied, 423 U.S. 1077 (1976).