

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEAUNDRAY GASTON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57997

FILED

JUL 13 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Tracie K. Lindeman*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order denying a motion to correct an illegal sentence.¹ Eighth Judicial District Court, Clark County; Michael Villani, Judge.


In his motion filed on February 4, 2011,² appellant claimed that the deadly weapon enhancement was illegal because the jury did not pronounce a separate sentence for the deadly weapon enhancement at the penalty phase, but only returned a sentence for the primary offense of first-degree murder. Appellant also claimed that his sentence was illegal because the district court sentenced him without having a presentence

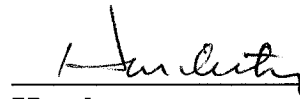
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

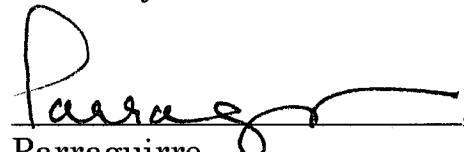
²Appellant previously submitted a motion to correct an illegal sentence on November 23, 2010. The district court denied the motion without prejudice while an appeal was pending in this court. The February 4, 2011 motion raised the same claims and was filed after the remittitur issued in Gaston v. State, Docket No. 56130 (Order of Affirmance, November 12, 2010).

investigation report prepared. Appellant failed to demonstrate that his sentence was facially illegal and that the district court lacked jurisdiction. See Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). We therefore conclude that the district court did not err in denying appellant's motion. Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Michael Villani, District Judge
DeAundray Gaston
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

³We 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.