

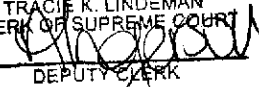
IN THE SUPREME COURT OF THE STATE OF NEVADA

MELVIN LEE BAILEY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 62237

**FILED**

FEB 13 2014

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from an amended judgment of conviction. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Appellant Melvin Lee Bailey was convicted, pursuant to a guilty plea, of two counts of sexual assault. The district court sentenced him to two consecutive terms of life with the possibility of parole after ten years. On appeal, we concluded that Bailey's sentences were "not cruel and unusual or disproportionate to his offense." *Bailey v. State*, Docket No. 30949 (Order Dismissing Appeal, May 14, 1998). On November 16, 2012, the district court entered an amended judgment of conviction in which it added a special sentence of lifetime supervision. Bailey raises four contentions on appeal.

First, Bailey asserts that the district court erred in amending his judgment of conviction fifteen years after the original sentencing. He contends that the district court violated the separation of powers doctrine by initiating the proceeding during which it amended the judgment of conviction. He further contends that the amendment of his judgment of conviction violated double jeopardy because he had a reasonable

14-04779


expectation that his sentence was final. We disagree. Bailey pleaded guilty to two counts of sexual assault. The penalty at the time of the offense required a sentence of lifetime supervision. 1995 Nev. Stat. ch. 256, § 4, at 414. Therefore, the original sentence was illegal and the district court had the authority to correct an illegal sentence at any time. NRS 176.555.

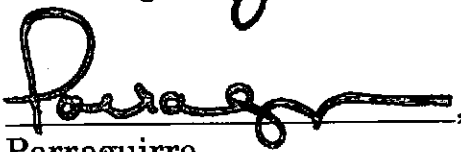
Second, Bailey contends that his guilty plea was not knowing and voluntary because he was not advised of the lifetime supervision requirement. Generally, challenges to the validity of a guilty plea must be raised in the district court in the first instance by either filing a motion to withdraw the guilty plea or commencing a timely post-conviction proceeding pursuant to NRS chapter 34. *Bryant v. State*, 102 Nev. 268, 272, 721 P.2d 364, 367-68 (1986), *limited by Smith v. State*, 110 Nev. 1009, 1010 n.1, 879 P.2d 60, 61 n.1 (1994); *see also O'Guinn v. State*, 118 Nev. 849, 851-52, 59 P.3d 488, 489-90 (2002). Because the record does not indicate that Bailey challenged the validity of his guilty plea on this basis in the district court, his claim is not appropriate for review on direct appeal from the amended judgment of conviction, and, therefore, we need not address it. *Bryant*, 102 Nev. at 272, 721 P.2d at 368.

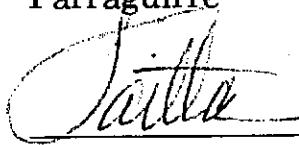
Third, Bailey asserts that his counsel was ineffective during the proceedings that preceded the amendment of his conviction. We have consistently declined to consider ineffective-assistance-of-counsel claims on direct appeal unless the district court has held an evidentiary hearing on the matter or an evidentiary hearing would be needless. *Pellegrini v. State*, 117 Nev. 860, 883, 34 P.3d 519, 534-35 (2001). As neither exception applies here, we decline to address this claim.

Fourth, Bailey argues that the district court did not have jurisdiction over the entry of the guilty plea because it failed to bind him over after a preliminary hearing. Bailey did not raise this argument in his appeal from the original judgment of conviction, and, although the amended judgment of conviction added lifetime supervision, it did not alter any proceedings that preceded the original judgment of conviction. Therefore, this claim is not properly raised in this appeal and we decline to address the merits of this claim.

Having concluded that Bailey is not entitled to relief, we  
ORDER the amended judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, J.  
Parraguirre

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

cc: Hon. Connie J. Steinheimer, District Judge  
Karla K. Butko  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk