

IN THE SUPREME COURT OF THE STATE OF NEVADA

CARLOS ALFREDO GURRY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 63711

**FILED**

JAN 21 2014

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *R. Malone*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is a proper person appeal from a district court order denying a motion to correct an illegal sentence.<sup>1</sup> Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

Appellant was charged with several offenses, including first-degree murder with the use of a deadly weapon and escape with a dangerous weapon stemming from appellant's involvement in the attempted robbery of a bank during which appellant's codefendant facilitated his escape from arrest by attacking and shooting to death a law enforcement officer. Appellant was alleged to have aided and abetted in the crimes as the getaway driver. He was found guilty of first-degree murder with the use of a deadly weapon along with other offenses but was found not guilty of the escape charge. Appellant filed a motion to correct an illegal sentence, arguing that because the law enforcement agent's

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<sup>1</sup>This 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).

murder was accomplished to facilitate the codefendant's escape from custody and appellant was acquitted of the escape charge, he is "entitled to be discharged" from his conviction for first-degree murder with the use of a deadly weapon or be granted "whatever other relief [the court] deems necessary in the interest of serving justice." The district court denied the motion.

A motion to challenge an illegal sentence may only challenge the facial legality of the sentence or the sentence imposed in excess of the statutory maximum. *See 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 the proceedings that occur prior to the imposition of sentence.'" *Id.* (quoting *Allen v. United States*, 495 A.2d 1145, 1149 (D.C. 1985)). Appellant's claim that he should be relieved of his conviction of first-degree murder with the use of a deadly weapon falls outside the scope of claims permitted in a motion to correct an illegal sentence.<sup>2</sup> Accordingly, the district court did not err by denying the motion, and we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.  
Hardesty

Douglas, J.  
Douglas

Cherry, J.  
Cherry

<sup>2</sup>Because the claim was not properly raised in a motion to correct an illegal sentence, we express no opinion as to the merits of the claim.

cc: Hon. Elissa F. Cadish, District Judge  
Carlos Alfredo Gurry  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk