

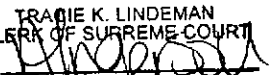
IN THE SUPREME COURT OF THE STATE OF NEVADA

GREGORY ALLEN HATFIELD,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 64174

**FILED**

FEB 12 2014

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is a proper person appeal from an order denying a motion to correct an illegal sentence.<sup>1</sup> Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.


In his motion filed on May 6, 2013, and amended motion filed on September 11, 2013, appellant claimed that the district court improperly convicted him of felony battery with the use of a deadly weapon and improperly adjudicated him a habitual criminal. Appellant claimed that when the district court rejected application of NRS 193.165, the deadly weapon enhancement, the effect was to delete the language of “use of a deadly weapon” from the information, meaning that he could only be convicted of misdemeanor battery. Appellant failed to demonstrate that his sentence was facially illegal or that the district court lacked jurisdiction. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Appellant’s sentence was within the statutory range permitted by NRS 207.010(1)(b)(3). Appellant’s claim that the district court deleted the element of “use of a deadly weapon” from the battery charge is patently

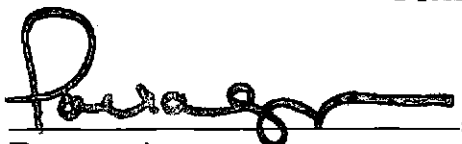
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<sup>1</sup>This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. *See Lockett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

without merit as the district court was only acknowledging that a defendant could not receive both habitual criminal treatment and a deadly weapon enhancement under NRS 193.165. Further, the deadly weapon enhancement of NRS 193.165 could not be applied where the deadly weapon was an element of a crime, as it is in the crime of battery with use of a deadly weapon pursuant to NRS 200.481(2)(e). See NRS 193.165(4); see also *Zgombic v. State*, 106 Nev. 571, 574, 798 P.2d 548, 549-50 (1990) (recognizing that a deadly weapon is an element in some statutes, such as assault with a deadly weapon). A person convicted of the crime of battery with the use of a deadly weapon may be adjudicated a habitual criminal. To the extent that appellant challenged errors in the charging documents, appellant's claims fell outside the narrow scope of claims permissible in a motion to correct an illegal sentence. See *Edwards*, 112 Nev. at 708, 918 P.2d at 324. Therefore, without considering the merits of the claims that were outside the scope permitted, we conclude that the district court did not err in denying the motion. Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

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

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

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

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<sup>2</sup>We 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.

cc: Hon. Robert W. Lane, District Judge  
Gregory Allen Hatfield  
Nye County District Attorney  
Attorney General/Carson City  
Nye County Clerk