

IN THE SUPREME COURT OF THE STATE OF NEVADA

TYRONE B. HUTCHINS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 65829

FILED

SEP 17 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malm
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a motion to vacate and correct an illegal sentence and judgment of conviction.¹ Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

In his motion filed on April 29, 2014, appellant claimed that the judgment of conviction failed to specify the minimum parole eligibility for five of his six counts and that the amended judgment of conviction reflects that those five convictions were “with use of a deadly weapon” despite this court having ruled that the instrument used was not a deadly weapon. *See Hutchins v. State*, 110 Nev. 103, 111-12, 867 P.2d 1136, 1142 (1994), *holding modified on other grounds by Mendoza v. State*, 122 Nev. 267, 130 P.3d 176 (2006). As neither the failure to specify a minimum term of imprisonment nor the inclusion of surplussage in the description of a crime either renders a sentence illegal or implicates the jurisdiction of

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).

the district court, appellant's claim fell outside the narrow scope of claims permissible in a motion to modify or correct an illegal sentence. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Moreover, as a separate and independent ground to deny relief on the deadly weapon claim, the amended judgment of conviction correctly reflects that appellant was ultimately convicted of committing his crimes without the use of a deadly weapon and was sentenced accordingly. We therefore

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

cc: Hon. Elissa F. Cadish, District Judge
Tyrone B. Hutchins
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk