

IN THE SUPREME COURT OF THE STATE OF NEVADA

PHILIP E. LOWER,

No. 36218

Appellant,

vs.

THE STATE OF NEVADA,

FILED

Respondent.

FEB 8 2002

MANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's motion to correct an illegal sentence. On December 20, 1999, appellant Philip Lower filed a motion to correct an illegal sentence in the district court. On December 30, 1999, a hearing was held in the district court on the State's motion for revocation of appellant's probation. During that hearing, the State conceded that appellant's sentence was illegal. The district court agreed to correct the illegal sentence and subsequently entered a corrected judgment of conviction reducing appellant's sentence to a term of 12 to 48 months in the Nevada State Prison.¹ However, the district court did not enter a

¹Appellant's initial judgment of conviction imposed a suspended prison sentence of 19 to 48 months with no credit for time served. In a separate order entered on December 30, 1999, the district court revoked

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written order expressly resolving appellant's motion to correct his illegal sentence at that time.

Thereafter, on January 13, 2000, the district court filed an order directing the State to respond to appellant's motion to correct an illegal sentence. The State did not file a response. On April 24, 2000, the district court filed an order stating that a response from the State was not necessary. The district court's order noted that appellant's judgment of conviction had already been corrected; therefore, the district court denied appellant's motion to correct an illegal sentence as moot. Appellant appeals from that order.

The district court did not err in denying appellant's motion. To the extent that the motion requested the reduction of appellant's sentence to reflect the statutory maximum sentence of 12 to 48 months, the motion was moot because appellant had already received the requested relief. The additional relief requested in appellant's motion was not warranted.²

Having reviewed the record on appeal and for the reasons set forth above, we conclude that appellant is not entitled to relief and

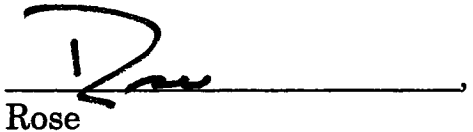
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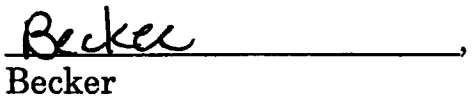
appellant's probation and awarded him credit for 119 days for time served.

²Appellant's motion also requested the district court to vacate his suspended sentence and to order his immediate release.

that briefing and oral argument are unwarranted.³ Accordingly, we
ORDER the judgment of the district court AFFIRMED.⁴

 J.
Shearing

 J.
Rose

 J.
Becker

cc: Hon. Steven P. Elliott, District Judge
Attorney General/Carson City
Washoe County District Attorney
Philip E. Lower
Washoe County Clerk

³See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975), cert. denied, 423 U.S. 1077 (1976).

⁴Although Lower has not been granted permission to file documents in this matter in proper person, see NRAP 46(b), we have received and considered his proper person documents.