

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAMES ANTHONY DAVIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 68935

FILED

APR 20 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a motion to modify and/or correct an illegal sentence.¹ Eighth Judicial District Court, Clark County; William D. Kephart, Judge.

In his motion filed on August 25, 2015, appellant James Davis claimed his sentence of life with the possibility of parole after 20 years for his first-degree murder conviction was not within the statutory limits because, based on the facts of his case, he should have been sentenced for voluntary manslaughter under NRS 200.080 or involuntary manslaughter under NRS 200.090. Davis also claimed his counsel forced him into taking the plea deal; there was a conflict of interest between him and his counsel that the district court ignored; the State overcharged him in violation of his due process rights; and sentencing him for first-degree murder when

¹This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).

he should have been sentenced for involuntary manslaughter violated the Double Jeopardy Clause.

“[A] motion to modify a sentence is limited in scope to sentences based on mistaken assumptions about a defendant’s criminal record which work to the defendant’s extreme detriment.” *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). A motion to correct an illegal sentence may address only the facial legality of the sentence—either the district court was without jurisdiction to impose a sentence or the sentence was imposed in excess of the statutory maximum. *Id.* “A motion to correct an illegal sentence ‘presupposes a valid conviction and may not, therefore, be used to challenge alleged errors in proceedings that occur prior to the imposition of sentence.’” *Id.* (quoting *Allen v. United States*, 495 A.2d 1145, 1149 (D.C. 1985)). A motion to modify or correct a sentence that raises issues outside the very narrow scope of issues permissible may be summarily denied. *Id.* at 708 n.2, 918 P.2d at 325 n.2.

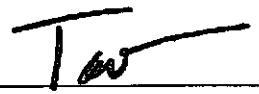
Davis’ claims that his sentence is illegal because it fell outside of the statutory limits and it violated the Double Jeopardy clause lack merit. Because Davis pleaded guilty to first-degree murder, sentencing him for that crime was proper, and his sentence is within the statutory parameters. *See* 1995 Nev. Stat., ch. 443, § 44, at 1181. Therefore, the district court did not err by denying these claims.


The remainder of Davis’ claims fell outside the narrow scope of claims permissible in a motion to modify or correct an illegal sentence. *See Edwards*, 112 Nev. at 708, 918 P.2d at 324. Therefore, without

considering the merits of any of those claims, we conclude the district court did not err in denying those claims. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. William D. Kephart, District Judge
James Anthony Davis
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk