

IN THE SUPREME COURT OF THE STATE OF NEVADA

KEITH RAY WILLIAMS,

No. 36487

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

**FILED**

DEC 17 2001

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *Richard*  
CHIEF 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 April 22, 1998, the district court convicted appellant, pursuant to a jury verdict, of one count of grand larceny and one count of possession of stolen property. After adjudicating appellant a habitual criminal pursuant to NRS 207.010(1)(b), the district court sentenced appellant to a maximum term of twenty-five (25) years with a minimum parole eligibility of ten (10) years in the Nevada State Prison. On direct appeal, this court affirmed the conviction for possession of stolen property and the habitual criminal adjudication, and reversed the grand larceny conviction because appellant could not be convicted of both counts.<sup>1</sup> The district court entered a corrected judgment on October 6, 1998 reflecting a conviction for possession of stolen property.

On November 18, 1998, appellant filed a proper person post-conviction petition for a writ of habeas corpus. The State filed a motion to dismiss the petition and appellant filed a response. The district court

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<sup>1</sup>Williams v. State, Docket No. 32307 (Order of Remand, September 10, 1998).

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appointed counsel to represent appellant and conducted an evidentiary hearing. On June 9, 1999, the district court denied appellant's petition. This court dismissed appellant's subsequent appeal.<sup>2</sup>

On May 16, 2000, appellant filed a proper person motion to correct an illegal sentence in the district court. The State opposed the motion. On July 13, 2000, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended that his habitual criminal adjudication must be vacated because the State failed to file an amended information charging the defendant as a habitual criminal.

A motion to correct an illegal sentence may only challenge the facial legality of the sentence: either the district court was without jurisdiction to impose a sentence or that the sentence was imposed in excess of the statutory maximum.<sup>3</sup> "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.'"<sup>4</sup>

Our review of the record on appeal reveals that the issue raised by appellant falls outside the very narrow scope of issues cognizable in a motion to correct an illegal sentence.<sup>5</sup> There is no indication that the district court was without jurisdiction, and appellant's sentence was facially legal.<sup>6</sup> Moreover, this court rejected appellant's previous attempt

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<sup>2</sup>Williams v. Warden, Docket No. 34385 (Order Dismissing Appeal, October 19, 1999).

<sup>3</sup>Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

<sup>4</sup>Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).

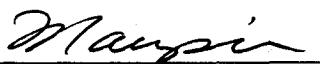
<sup>5</sup>Id. at 708, 918 P.2d at 324.

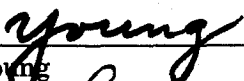
<sup>6</sup>See id.; NRS 205.275; NRS 207.010(1)(b).


in his direct appeal to challenge the validity of his habitual criminal adjudication. The doctrine of the law of the case prevents further litigation of the issue.<sup>7</sup> Thus, we conclude that the district court did not err in denying appellant's motion.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.<sup>8</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>9</sup>

 \_\_\_\_\_, C.J.  
Maupin

 \_\_\_\_\_, J.  
Young

 \_\_\_\_\_, J.  
Leavitt

cc: Hon. Steven P. Elliott, District Judge  
Attorney General/Carson City  
Washoe County District Attorney  
Keith Ray Williams  
Washoe County Clerk

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<sup>7</sup>See Hall v. State, 91 Nev. 314, 535 P.2d 797 (1975).

<sup>8</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

<sup>9</sup>We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.