

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID EUGENE ABARA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 71425

FILED

AUG 16 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

David Eugene Abara appeals from an order of the district court denying the motion to correct an illegal sentence he filed on July 27, 2016.¹ Second Judicial District Court, Washoe County; Elliott A. Sattler, Judge.


In his motion, Abara claimed his sentence was facially illegal because, while he pleaded guilty to uttering a forged instrument, he really was guilty of attempted uttering a forged instrument. He also claims because the district court took into consideration the fact his crime was only an attempt when sentencing him, he should have been sentenced for an attempt and his crime should have been a gross misdemeanor. Abara failed to demonstrate his sentence was facially illegal or the district court lacked jurisdiction. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Abara was convicted of uttering a forged instrument and his sentence of 15 to 48 months in prison was within the prescribed

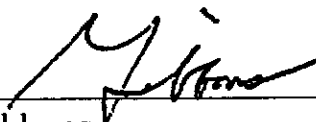
¹This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3); (g).

statutory range. See NRS 193.130(2)(d); NRS 205.090. Further, “[a] motion to correct an illegal sentence presupposes a valid conviction and may not, therefore, be used to challenge alleged errors in the proceedings that occur prior to the imposition of sentence.” See *Edwards*, 112 Nev. at 708, 918 P.2d at 324 (internal quotation marks omitted). Therefore, we conclude the district court did not err in denying Abara’s motion, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Elliott A. Sattler, District Judge
David Eugene Abara
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk