

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ELTON C. STONE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 72839

FILED

FEB 13 2018

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

ORDER OF AFFIRMANCE

Elton C. Stone appeals from a district court order summarily denying the motion to correct an illegal sentence he filed on February 28, 2017.¹ Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

In his motion, Stone claimed his sentence for attempting to violate lifetime supervision was illegal “because the State failed to charge him with any violations enumerated in NRS 213.1243. Thus, the district court never obtained subject matter jurisdiction over this case because the charging document did not state a crime.”


NRS 176.555 states a district “court may correct an illegal sentence at any time.” A motion to correct an illegal sentence, however, may only challenge 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. *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). “A motion to correct an illegal sentence


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).

'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)).

Stone's claim fell outside the narrow scope of claims permissible in a motion to correct an illegal sentence because it did not implicate the jurisdiction of the district court, *see* Nev. Const. art 6, § 6; NRS 171.010, and his 12- to 30-month prison sentence is facially legal, *see* NRS 193.130(2)(c); NRS 193.330(1)(a)(3); NRS 213.1243(8). Accordingly, the district court did not err by denying his motion, and we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Silver


_____, J.
Gibbons

cc: Hon. Elissa F. Cadish, District Judge
Elton C. Stone
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²The Honorable Jerome T. Tao did not participate in the decision in this matter.