

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES PLAYER,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 36724

FILED

DEC 18 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
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 September 26, 1986, the district court convicted appellant and four co-defendants,¹ pursuant to a jury verdict, of first degree kidnapping with substantial bodily harm with use of a deadly weapon, extortion with use of a deadly weapon, and mayhem with use of a deadly weapon. The district court sentenced appellant to serve, in the Nevada State Prison, two consecutive terms of life with the possibility of parole for kidnapping, two consecutive terms of ten years for extortion, and two consecutive terms of ten years for mayhem; each count to be served concurrently. This court affirmed the appellant's judgment of conviction and sentence on direct appeal.²

On May 15, 1989, appellant and co-defendants each filed identical proper person petitions for post-conviction relief pursuant to former NRS 177.315 in the district court. The district court appointed counsel to represent appellant in the post-conviction proceedings. On April 9, 1990, the district court dismissed all of the petitions, and this court dismissed the subsequent appeal.³

On December 13, 1990, appellant and codefendants filed proper person petitions for a writ of habeas corpus in the district court. On July 28, 1992, the district court denied the petitions. This court affirmed the district court decisions on appeal.⁴

On March 6, 1996, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. On March 21, 1996, the district court dismissed the petition. This court dismissed appellant's subsequent untimely appeal.⁵

On July 26, 2000, appellant filed a proper person motion to correct an illegal sentence in the district court. The State opposed the motion. On August 17, 2000, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended his sentence enhancements are illegal because household items are not "deadly weapons."

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.⁶ "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.'"⁷

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.⁸ There is no indication that the district court was without jurisdiction, and appellant's sentence was facially legal.⁹ Moreover, this court has rejected appellant's previous attempt in his habeas corpus petition to challenge the deadly weapon

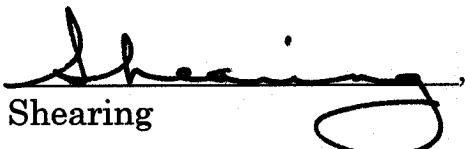
⁴Bridgewater v. Warden, 109 Nev. 1159, 865 P.2d 1166 (1993).

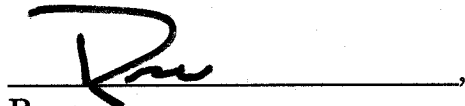
⁵Player v. State, Docket No. 28796 (Order Dismissing Appeal, July

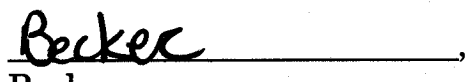
sentence enhancements.¹⁰ The doctrine of the law of the case prevents further litigation of the issue.¹¹ We conclude that the district court did not err in denying appellant's motion.

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.¹² Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹³


_____, J.
Shearing


_____, J.
Rose


_____, J.
Becker

cc: Hon. Jeffrey D. Sobel, District Judge
Attorney General/Carson City
Clark County District Attorney
James Player
Clark County Clerk