

IN THE SUPREME COURT OF THE STATE OF NEVADA

JACK JOSEPH BATTLE, JR.,

No. 37125

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

JAN 03 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Roberts*
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 June 22, 1999, the district court convicted appellant, pursuant to a guilty plea, of one count of invasion of the home. The district court sentenced appellant to serve a term of twenty-four to sixty months in the Nevada State Prison. The district court then suspended execution of the sentence and placed appellant on probation for an indeterminate period not to exceed five years. On April 12, 2000, the district court entered an order revoking appellant's probation and executing the sentence originally imposed. Appellant did not file a direct appeal.

On November 7, 2000, appellant filed a proper person motion to correct an illegal sentence in the district court. The State opposed the motion. On November 27, 2000, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended that his sentence is illegal because the State purportedly breached the plea agreement.

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 the sentence was imposed in excess of the statutory maximum.¹ "A motion to correct an illegal sentence presupposes a valid conviction and may not, therefore, be used to

¹Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

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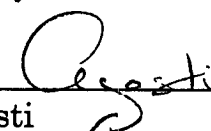
challenge alleged errors in proceedings that occur prior to the imposition of sentence."²

Our review of the record on appeal reveals that the district court did not erroneously deny appellant's motion. Appellant's challenge fell outside of the very narrow scope of claims permissible in a motion to correct an illegal sentence. When a motion to correct or vacate an illegal sentence raises issues outside of the very narrow scope of the court's inherent authority to hear such an argument, the motion must be summarily denied.³ Moreover, appellant's sentence is within statutory limits⁴ and our review of the record reveals that the district court had jurisdiction over the case.⁵

Having reviewed the records 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.⁶ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Young


_____, J.
Agosti


_____, J.
Leavitt

²Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).

³Id. at 709 n.2, 918 P.2d at 325 n.2.

⁴See NRS 205.067(2) ("A person convicted of invasion of the home . . . shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years . . .").

⁵See NRS 171.010 (providing that with limited exceptions, Nevada courts have jurisdiction over crimes that are punishable under Nevada law and committed within the State of Nevada).

⁶See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

cc: Hon. Donald M. Mosley, District Judge
Attorney General/Carson City
Clark County District Attorney
Jack Joseph Battle, Jr.
Clark County Clerk