

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SHAUNTAY JERMAINE WHEATON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 70017

FILED

DEC 28 2016

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Appellant Shauntay Jermaine Wheaton appeals from a district court order denying his motion to correct an illegal sentence that was filed on December 29, 2015.¹ Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

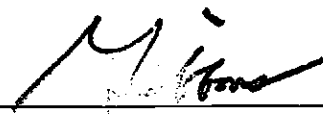
Wheaton claims the district court erred by denying his motion to correct an illegal sentence. He asserts his right to equal protection was violated when the Nevada Legislature passed A.B. 267 in 2015, which provides that a person who was a juvenile at the time of the commission of the offense shall be eligible for parole after serving 20 years. He argues his sentence of life with the possibility of parole after 20 years plus an equal and consecutive term for the deadly weapon enhancement requires him to serve twice the amount of time provided under A.B. 267. *See* NRS 176.025; NRS 213.12135(1)(b). Wheaton also appears to assert his consecutive term of life with the possibility of parole after 20 years for the deadly weapon enhancement violates equal protection because the deadly

¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

weapon enhancement statute, NRS 193.165, has been amended such that an equal and consecutive term of life with the possibility of parole after 20 years is no longer permitted.

Wheaton's claims fell outside the narrow scope of claims permissible in a motion to correct an illegal sentence. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Additionally, the provision in A.B. 267 setting forth parole eligibility after serving 20 years for persons who committed their underlying offense(s) while a juvenile does not apply to persons such as Wheaton who were convicted of multiple counts of first-degree murder. *See NRS 213.12135(2)*. Therefore, we conclude the district court did not err by denying the motion. We further conclude, because Wheaton's claims fell outside the scope of claims permissible in a motion to correct an illegal sentence, the district court did not abuse its discretion by denying his motion for the appointment of counsel and an evidentiary hearing. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Elissa F. Cadish, District Judge
Shauntay Jermaine Wheaton
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk