

IN THE SUPREME COURT OF THE STATE OF NEVADA

BENTON LEROY BOND,

No. 37304

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

NOV 14 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's motion to vacate an illegal sentence.

On August 31, 1999, the district court convicted appellant, pursuant to a guilty plea, of one count of burglary and one count of possession of stolen property. For the burglary conviction, the district court sentenced appellant to serve a minimum term of forty-eight (48) months to a maximum term of one hundred twenty (120) months in the Nevada State Prison. For the possession of stolen property conviction, the district court sentenced appellant to a consecutive minimum term of sixteen (16) months to a maximum term of sixty (60) months in the Nevada State Prison. Appellant did not file a direct appeal.

On October 13, 2000, appellant filed a proper person motion to vacate an illegal sentence in the district court. The State opposed the motion. On January 2, 2001, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended that the district court illegally sentenced him for possession of stolen property because, he claims, it is a lesser-included offense of burglary.

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

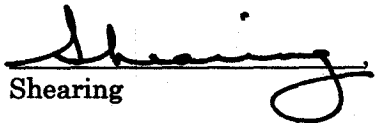
¹Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

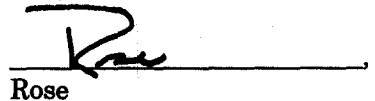
challenge alleged errors in proceedings that occur prior to the imposition of sentence."²

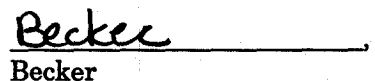
Our review of the record on appeal reveals that the district court did not err in denying appellant's motion. Appellant's challenge to his possession of stolen property conviction fell outside of the very narrow scope of claims permissible in a motion to correct an illegal sentence because this claim attacked the validity of the judgment of conviction. Where a motion to correct an illegal sentence raises issues outside the very narrow scope of the court's inherent authority to hear such a motion, the motion must be summarily denied.³ Moreover, appellant's claim lacked merit.⁴

Having reviewed the record on appeal, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.⁵ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁶


Shearing J.


Rose J.


Becker J.

cc: Hon. Steven P. Elliott, District Judge
Attorney General
Washoe County District Attorney
Benton Leroy Bond
Washoe County Clerk

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 Stowe v. State, 109 Nev. 743, 857 P.2d 15 (1993) (holding that possession of stolen property and burglary are separate and distinct offenses; a person can be convicted and punished for both).

⁵See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁶We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.