

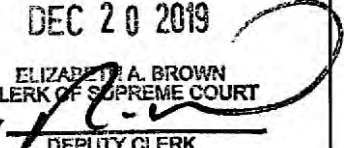
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTHONY LAMAR BAGLEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 78141-COA

FILED

DEC 20 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Anthony Lamar Bagley appeals from an order of the district court denying a motion to correct an illegal sentence, filed on December 21, 2018. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

Bagley was convicted, pursuant to a jury verdict, of first-degree murder with the use of a deadly weapon. In his motion to correct an illegal sentence, Bagley challenged only the sentence for the deadly weapon enhancement.

First, Bagley claimed the enhancement sentence was invalid because it should have been imposed with the primary sentence as a single, aggregated sentence and not as two distinct sentences. NRS 193.165(2)(b) mandates that the enhancement sentence shall be run "consecutively" with the sentence for the primary offense. Thus, the sentencing court properly announced a separate sentence for the deadly weapon enhancement that was to be run consecutive to the sentence for the primary offense. We therefore conclude the district court did not err by denying this claim.

Second, Bagley claimed the enhancement sentence was invalid because the district court violated the Due Process Clause and abused its

discretion when it did not provide proper notice of the enhancement or give Bagley an opportunity to be heard as to what the enhancement sentence should be. Bagley further claimed the imposition of the enhancement violated the Double Jeopardy Clause and that he was entitled to the retroactive application of the 2007 amendments to NRS 193.165. A motion to correct an illegal sentence cannot "be used as a vehicle for challenging the validity of a judgment of conviction or sentence based on alleged errors occurring at trial or sentencing." *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Bagley's claims challenged the validity of his judgment of conviction and sentence and were based largely on alleged errors occurring at or before sentencing. His claims thus fell outside the narrow scope of claims permissible in a motion to modify or correct an illegal sentence. Therefore, without considering the merits of these claims, we conclude the district court did not err by denying these claims.

For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Douglas W. Herndon, District Judge
Anthony Lamar Bagley
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk