

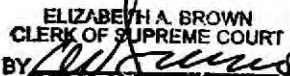
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FREDDY PONCE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 81549-COA

FILED

DEC 21 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER AFFIRMING IN PART AND DISMISSING IN PART


Freddy Ponce appeals from a district court order denying a motion to correct a presentence investigation report and a motion to correct an illegal sentence. Both motions were filed on May 27, 2020. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

Because no statute or court rule permits an appeal from an order denying a motion to correct a presentence investigation report, we lack jurisdiction over the appeal from this motion. *See Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990). Accordingly, we dismiss this portion of the appeal.

In his motion to correct an illegal sentence, Ponce claimed his guilty plea for robbery was illegal because the grand jury did not indict him on that charge and, therefore, the court lacked jurisdiction. Motions to correct an illegal sentence are interpreted narrowly and must demonstrate the sentence is facially illegal or the district court lacked jurisdiction. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). “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.” *Id.* (internal quotation marks omitted).

Ponce's claims challenged errors that occurred prior to the imposition of sentence and are thus outside the scope of a motion to correct an illegal sentence. Therefore, we conclude the district court did not err by denying Ponce's motion to correct an illegal sentence. Accordingly, we

ORDER the judgment of the district court AFFIRMED IN PART and DISMISSED IN PART.¹


_____, C.J.
Gibbons


_____, J.
Bulla

cc: Hon. Michael Villani, District Judge
Freddy Ponce
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹Ponce argues on appeal that the district court erred by ruling on the motions without the State serving him with its Answering Brief or allowing him to respond to the State's Countermotion to Dismiss Pursuant to Laches. The record before this court indicates the State served its brief on Ponce. Moreover, for the reasons discussed above, Ponce is not entitled to relief.

The Honorable Jerome T. Tao did not participate in the decision in this matter.