

IN THE SUPREME COURT OF THE STATE OF NEVADA

GREGORY RICHARD HOGAN,

No. 37572

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

**FILED**

NOV 16 2001

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richard*  
CLERK DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's proper person post-conviction "motion to vacate, correct and/or modify sentence."

On October 2, 1985, the district court convicted appellant, pursuant to a guilty plea, of one count of attempted murder. The district court sentenced appellant to serve a term of twenty years in the Nevada State Prison. This sentence was ordered to run consecutive to all of appellant's other cases in Nevada and California. Appellant did not file a direct appeal.

On March 14, 1986, appellant filed a document labeled "motion for leave to withdraw guilty plea and to vacate sentence." The State filed a response. The district court appointed counsel and conducted a hearing. At the hearing, appellant withdrew his motion with prejudice after conferring with counsel and being advised by the court that the issues raised in the motion could not be raised again at a later time.

On August 21, 1986, appellant filed a "petition for post-conviction relief for sentence modification & reduction N.R.S. 177.315 et seq" in the district court. On October 24, 1986, without conducting an evidentiary hearing, the district court denied appellant's petition. Appellant did not file an appeal from this decision.

On February 16, 1999, appellant filed a "motion to vacate, correct and/or modify sentence" in the district court.<sup>1</sup> On March 25, 1999,

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<sup>1</sup>Initially, appellant was represented by counsel when this motion was filed.

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the district attorney filed an opposition to the motion. On December 18, 2000, appellant filed a motion to proceed in forma pauperis and for the discharge of counsel. On December 28, 2000, the court granted appellant's motion for the discharge of counsel, and appellant's attorney was removed from the case. On February 2, 2001, the attorney general filed an opposition to appellant's "motion to vacate, correct and/or modify sentence." On February 13, 2001, the district court denied appellant's "motion to vacate, correct and/or modify sentence." This appeal followed.

In his motion, appellant contended that his sentence was illegal because the Nevada Board of Parole Commissioners had been notifying the victim of his attempted murder conviction to appear at parole hearings concerning a prior, unrelated conviction. Appellant further claimed that this caused him to be denied a fair parole hearing, and therefore, his judgment of conviction for attempted murder should be amended to state that the twenty-year term runs concurrently to his sentences in the other district court case. Finally, appellant claims that he pleaded guilty with the understanding that he was to receive a concurrent sentence, and therefore his sentence should be modified.

The court may grant a motion to correct or modify a sentence only if it appears that the sentencing court had misapprehended a material fact about the defendant's criminal record that worked to his or her extreme detriment or if the defendant's sentence is facially illegal, that is, if the sentencing court imposed a sentence in excess of the statutory maximum or otherwise acted without jurisdiction.<sup>2</sup>

Our review of the record on appeal reveals that the district court did not err in denying appellant's motion. Appellant's challenge to the validity of his sentence fell outside the scope of claims permitted in Edwards. There is no indication in the record that the district court was without jurisdiction or that appellant's sentence was not facially legal. Appellant's sentence was within statutory limits.<sup>3</sup> Further, appellant has not alleged that the district court relied on any false information about appellant's prior criminal record in imposing the sentence in the attempt

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<sup>2</sup>See Edwards v. State, 112 Nev. 704, 707-08, 918 P.2d 321, 323-24 (1996).

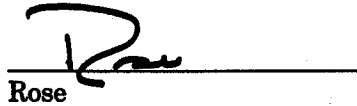
<sup>3</sup>See id. at 708, 918 P.2d at 324.

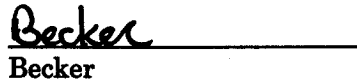
murder case.<sup>4</sup> Therefore, we conclude that the district court did not err in denying appellant's motion.

Having reviewed the record 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.<sup>5</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>6</sup>

 J.  
Shearing

 J.  
Rose

 J.  
Becker

cc: Hon. Sally L. Loehrer, District Judge  
Attorney General/Carson City  
Clark County District Attorney  
Gregory Richard Hogan  
Clark County Clerk

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<sup>4</sup>See id. at 707, 918 P.2d at 324.

<sup>5</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975), cert. denied, 423 U.S. 1077 (1976).

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