


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GEORGE W. LUSTER, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 88555-COA

FILED

NOV 20 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

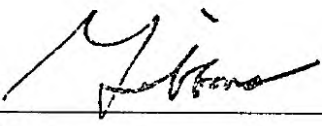
George W. Luster, Jr., appeals from a district court order denying a motion to correct an illegal sentence filed on August 31, 2023. Eighth Judicial District Court, Clark County; Jasmin D. Lilly-Spells, Judge.

In his motion, Luster claimed his sentence was illegal because the district court lacked jurisdiction to sentence him for his first-degree murder conviction. Specifically, he claimed that first-degree murder trials are bifurcated and thus that the jury had sole jurisdiction to determine his sentence under NRS 175.552. 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. *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).

Previously, Luster filed a motion to correct an illegal sentence and argued “the district court lacked jurisdiction to sentence him because he was convicted of first-degree murder, and absent a stipulation from the

parties, he was required to be sentenced by the trial jury.” This court determined Luster had not shown that his sentence was facially illegal or that the district court lacked jurisdiction to sentence him. *Luster v. State*, No. 74479-COA, 2018 WL 5801384, at *1 (Nev. Ct. App. Oct. 25, 2018) (Order of Affirmance) (noting “the parties indicated they had stipulated to Luster being sentenced by the trial judge”). This determination is the law of the case and “cannot be avoided by a more detailed and precisely focused argument subsequently made after reflection upon the previous proceedings.” *Hall v. State*, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975). Therefore, we conclude the district court did not err by denying the instant motion.¹ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

¹To the extent Luster contended that the district court or the State violated his constitutional or statutory rights, these claims were outside the scope of claims permissible in a motion to correct an illegal sentence. See *Edwards*, 112 Nev. at 708, 918 P.2d at 324.

cc: Hon. Jasmin D. Lilly-Spells, District Judge
George W. Luster, Jr.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk