

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM S. MANCIANO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 39431

**FILED**

DEC 19 2002

ORDER OF AFFIRMANCE

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

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

On May 13, 1997, the district court convicted appellant, pursuant to a jury trial, of one count of first degree arson, three counts of attempted murder, and one count of maiming or disfiguring another person's animal. The district court sentenced appellant to serve terms totaling five hundred and fifty-two months with parole eligibility after one hundred and twenty-two months in the Nevada State Prison. This court dismissed appellant's appeal from his judgment of conviction.<sup>1</sup>

On March 14, 2000, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. Appellant filed a reply. On May 24, 2000, the

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<sup>1</sup>Manciano v. State, Docket No. 30396 (Order Dismissing Appeal, September 1, 1999).

district court denied appellant's petition. This court affirmed the order of the district court on appeal.<sup>2</sup>

On January 28, 2002, appellant filed a proper person motion to correct an illegal sentence in the district court. The State opposed the motion. On March 11, 2002, the district court denied appellant's motion. This appeal followed.

In his motion, appellant claimed that false and inaccurate information was presented at the sentencing hearing and that the district court relied upon this information in sentencing appellant. Appellant also claimed that he should not have received consecutive sentences for the three counts of attempted murder because the three counts arose from the same act. 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.<sup>3</sup> "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.'"<sup>4</sup> "[S]uch a motion cannot . . . be used as a vehicle for

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<sup>2</sup>Manciano v. State, Docket No. 36159 (Order of Affirmance, March 27, 2002).

<sup>3</sup>Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

<sup>4</sup>Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).

challenging the validity of a judgment of conviction or sentence based on alleged errors occurring at trial or sentencing.”<sup>5</sup>

Our review of the record on appeal reveals that that the district court did not err in denying appellant’s motion. Appellant’s claims fell outside the scope of a motion to correct an illegal sentence. Appellant’s sentence was facially legal, and there is no indication in the record that the district court was without jurisdiction.<sup>6</sup> Moreover, because each of the counts of attempted murder involved a different victim, the district court did not err in imposing consecutive terms for the attempted murder counts.<sup>7</sup> To the extent that appellant’s motion may be construed to be a motion to modify a sentence, appellant failed to demonstrate that the sentencing court misapprehended a material fact about appellant’s criminal record that worked to appellant’s extreme detriment.<sup>8</sup> Therefore, we affirm the order of the district court denying appellant’s motion.

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<sup>5</sup>Id. at 708, 918 P.2d at 324.

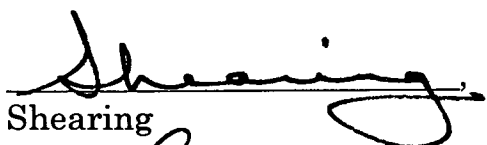
<sup>6</sup>NRS 205.010; NRS 200.010; NRS 200.030; NRS 193.330; NRS 206.150.

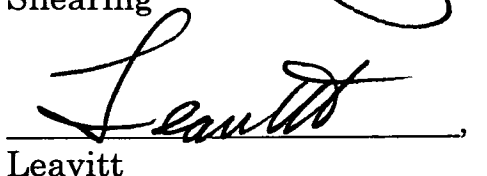
<sup>7</sup>Galvan v. State, 98 Nev. 550, 655 P.2d 155 (1982) (recognizing a long established rule that a course of conduct that results in harm to multiple victims gives rise to multiple charges of the offense).

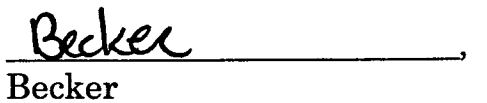
<sup>8</sup>Edwards, 112 Nev. at 707-08; 918 P.2d at 324.

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>9</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 J.  
Shearing

 J.  
Leavitt

 J.  
Becker

cc: Hon. Nancy M. Saitta, District Judge  
Attorney General/Carson City  
Clark County District Attorney  
William S. Manciano  
Clark County Clerk

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<sup>9</sup>Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).