

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDWARD MICHAEL PARKER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 40350

FILED

SEP 04 2003

ORDER OF AFFIRMANCE

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

This is a proper person appeal from a district court order denying appellant Edward Parker's motion to correct an illegal sentence and motion for the appointment of counsel.

On January 27, 1993, the district court convicted Parker, pursuant to an Alford plea,<sup>1</sup> of first-degree murder. The district court sentenced Parker to serve a term of life in the Nevada State Prison without the possibility of parole. No direct appeal was taken.

On December 10, 1993, and again on June 23, 2000, Parker filed proper person post-conviction petitions for writs of habeas corpus in the district court. The district court denied both petitions. This court affirmed those decisions on appeal.<sup>2</sup>

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<sup>1</sup>See North Carolina v. Alford, 400 U.S. 25 (1970). Under Nevada law, "whenever a defendant maintains his or her innocence but pleads guilty pursuant to Alford, the plea constitutes one of nolo contendere." State v. Gomes, 112 Nev. 1473, 1479, 930 P.2d 701, 705 (1996).

<sup>2</sup>Parker v. State, Docket No. 36825 (Order of Affirmance, January 2, 2002); Parker v. State, Docket No. 26138 (Order Dismissing Appeal, December 24, 1997).

On September 19, 2002, Parker filed a motion to correct an illegal sentence,<sup>3</sup> and a motion for the appointment of counsel. The State opposed these motions. On October 7, 2002, the district court denied Parker's motions. This appeal followed.<sup>4</sup>

In his motion, Parker contended that his sentence is illegal because it punishes him more severely than other similarly situated persons and that insufficient evidence supported his guilty plea.

NRS 176.555 provides that a district court may correct an illegal sentence at any time. A motion to correct an illegal sentence, however, 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>5</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>6</sup>

Our review of the record reveals that Parker was convicted of one count of first-degree murder in violation of NRS 200.010. Thereafter, the district court sentenced Parker to serve a term of life in prison without the possibility of parole. NRS 200.030(4)(b)(1) provides that a person who

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<sup>3</sup>The specific title of Parker's motion was as follows: "Motion to Correct No Record 'Unusual' Illegal Life Without Parole Sentence NRS 176.555 NRS 34.738 sec. 3, NRS 200.030 sec. 2."

<sup>4</sup>We conclude that the district court did not abuse its discretion when it denied Parker's motion for appointment of counsel.


<sup>5</sup>Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).


<sup>6</sup>Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).


is convicted of murder in the first degree may be sentenced to serve a term of life in prison without the possibility of parole. We conclude, therefore, that Parker's sentence was within the permissible statutory range. Parker's motion does not make a cogent challenge to the jurisdiction of the district court. Therefore, we conclude that Parker's sentence was not facially illegal and the district court did not err in denying his motion.<sup>7</sup>

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Parker is not entitled to relief and that briefing and oral argument are unwarranted.<sup>8</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>9</sup>

  
\_\_\_\_\_, J.  
Becker

  
\_\_\_\_\_, J.  
Shearing

  
\_\_\_\_\_, J.  
Gibbons

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<sup>7</sup>We note that Parker makes numerous allegations challenging his guilty plea and judgment of conviction in his motion and other documents filed on appeal. For the reasons set forth above, we conclude that these challenges are beyond the scope of a motion to correct an illegal sentence.

<sup>8</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

<sup>9</sup>We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.

cc: Hon. Lee A. Gates, District Judge  
Edward Michael Parker  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk