

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT DEE VEACH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 40515

FILED

AUG 20 2003

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Bloom*
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 April 22, 1997, the district court convicted appellant, pursuant to a guilty plea, of one count of sexual assault on a minor under the age of sixteen years. The district court sentenced appellant to serve a term of life in the Nevada State Prison with the possibility of parole. No direct appeal was taken.

On July 31, 2000, appellant filed an untimely proper person post-conviction petition for a writ of habeas corpus in the district court. On August 23, 2000, the district court dismissed the petition. This court affirmed the order of the district court on appeal.¹

On September 16, 2002, appellant filed a proper person motion to correct an illegal sentence in the district court. The State

¹Veach v. State, Docket No. 36828 (Order of Affirmance, December 4, 2001).

opposed the motion. On October 17, 2002, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended that that his sentence was illegal because the State breached the plea agreement. Appellant claimed that he was told that he would receive a sentence of no more than ten years, but that the prosecutor maliciously arranged for a stipulated sentence of life. This caused his trial counsel to stand mute at sentencing.

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.² "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.'"³

Based upon our review of the record on appeal, we conclude that the district court did not err in denying appellant's motion. Appellant's claim fell outside the very narrow scope of claims permissible in a motion to correct an illegal sentence. Appellant's sentence was facially legal—imposed within the parameters set forth in NRS 200.366(3)(b)(1)—and there is no indication that the district court was

²Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).


³Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).


without jurisdiction to sentence appellant. Therefore, we affirm the order of the district court.

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.⁴ Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 J.
Shearing

 J.
Leavitt

 J.
Becker

cc: Hon. James W. Hardesty, District Judge
Robert Dee Veach
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

⁴See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).