

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM JOSEPH BRUNS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 40545

FILED

OCT 10 2003

J. S. Serrillo
DEPUTY CLERK

ORDER OF AFFIRMANCE

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

On July 11, 2000, the district court convicted appellant, pursuant to a guilty plea, of one count of unlawful manufacture of a controlled substance. The district court sentenced appellant to serve a term of twenty-four to sixty months in the Nevada State Prison. No direct appeal was taken.

On February 13, 2001, appellant, with the assistance of counsel, filed a post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. On March 26, 2002, after conducting an evidentiary hearing, the district court denied appellant's petition. This court affirmed the order of the district court on appeal.¹

On August 28, 2002, appellant filed a proper person motion to correct an illegal sentence in the district court. The State opposed the motion. On November 4, 2002, the district court denied appellant's motion. This appeal followed.

¹Bruns v. State, Docket No. 39532 (Order of Affirmance, July 25, 2002).

In his motion, appellant contended that he was innocent of the crime of manufacturing a controlled substance because any manufacturing was for his personal use. Appellant further claimed that he should only have been punished for an attempt to manufacture or for unlawful delivery, sale, possession manufacture of drug paraphernalia pursuant to NRS 453.560. Finally, appellant claimed that his trial counsel failed to file a direct appeal.

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 A motion to correct an illegal sentence that raises issues outside the very narrow scope of issues permissible may be summarily denied.⁴

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 very narrow scope of claims permissible in a motion to correct an illegal sentence. Appellant's sentence was facially legal, and there is no indication that the district court was without jurisdiction in this matter.⁵ Appellant entered a guilty plea to the crime of

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)).


⁴Id. at 708-09 n.2, 918 P.2d at 325 n.2.


⁵1999 Nev. Stat., ch. 517, § 3, at 2637 (NRS 453.321).

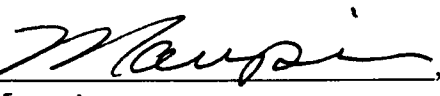
manufacturing a controlled substance. Appellant may not challenge the validity of his guilty plea or the effectiveness of his counsel in a motion to correct an illegal sentence. Therefore, we affirm the order of the district court.

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.⁶ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁷


_____, J.
Rose


_____, J.
Leavitt


_____, J.
Maupin

cc: Hon. Peter I. Breen, District Judge
William Joseph Bruns
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

⁶See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁷We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.