

IN THE SUPREME COURT OF THE STATE OF NEVADA

KODY DOUGLAS IVERSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 41179

FILED

JAN 28 2004

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 Kody Douglas Iverson's motion to correct an illegal sentence.

On March 16, 2000, the district court convicted Iverson, pursuant to a guilty plea, of first-degree murder. The district court sentenced Iverson to serve a term of life in the Nevada State Prison with the possibility of parole. Iverson did not file a direct appeal.

On January 27, 2003, Iverson filed a proper person motion to correct an illegal sentence in the district court. The State opposed the motion. Iverson filed a reply. On March 5, 2003, the district court denied Iverson's motion. This appeal followed.

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.¹ "A motion to correct an illegal sentence 'presupposes a valid conviction and may not, therefore, be used to

¹Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

challenge alleged errors in proceedings that occur prior to the imposition of sentence."²

In his motion, Iverson first contended that his sentence was illegal because the district court was without jurisdiction. Specifically, Iverson argued that although he was sixteen years old at the time he committed the offense, he did not receive a hearing in juvenile court to determine whether he should be tried as an adult. Because of this error, the district court did not have jurisdiction to impose his sentence.

Generally, a child who was fourteen years of age or older at the time he allegedly committed a felony offense is entitled to a hearing in juvenile court.³ The purpose of this hearing is to determine whether the juvenile court will retain jurisdiction over the case, or transfer it to the district court where the child will be tried as an adult.⁴ The juvenile court, however, does not have jurisdiction over a child charged with committing murder.⁵ Here, Iverson was charged with murder. Consequently, the juvenile court did not have jurisdiction, and the district court exercised proper jurisdiction over the matter. Therefore, the district court did not err in denying this claim.

Iverson next contended that his sentence was vague and ambiguous because his judgment of conviction does not state when he is eligible for parole. Because Iverson did not allege that his sentence was

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

³NRS 62.080(1).

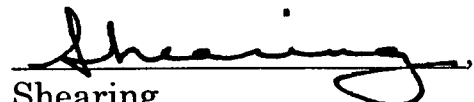
⁴Id.

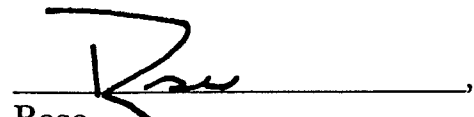
⁵NRS 62.040(2)(a).

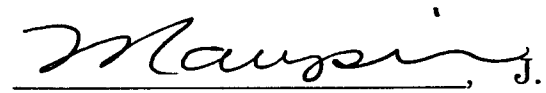
imposed in excess of the statutory maximum, this claim is outside the scope of a motion to correct an illegal sentence. Therefore, we affirm the order of the district court on this issue.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Iverson is not entitled to relief and that briefing and oral argument are unwarranted.⁶ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


Shearing C.J.


Rose J.


Maupin J.

cc: Hon. Andrew J. Puccinelli, District Judge
Kody Douglas Iverson
Attorney General Brian Sandoval/Carson City
Elko County District Attorney
Elko County Clerk

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