

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER JOSEPH BROWN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 41288

FILED

FEB 11 2004

ORDER OF AFFIRMANCE

JANETTE M. FLOREN
CLERK OF SUPREME COURT
BY *J. B. Bland*
CHIEF DEPUTY CLERK

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

On September 24, 1997, the district court convicted Brown, pursuant to a guilty plea, of trafficking in a controlled substance. The district court sentenced Brown to serve a term of ten to twenty-five years in the Nevada State Prison. No direct appeal was taken.

On July 13, 1998, Brown filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. Pursuant to NRS 34.750 and 34.770, the district court appointed counsel to represent Brown and held an evidentiary hearing. On July 7, 1999, the district court denied Brown's petition. This court dismissed Brown's subsequent appeal.¹

On June 22, 2000, Brown filed a post-conviction petition for a writ of habeas corpus in the district court. On August 2, 2000, the district

¹Joseph v. State, Docket Nos. 34593, 34825 (Order Dismissing Appeal, March 30, 2000). Appellant also used the name Christopher Brown Joseph.

court denied Brown's petition. This court affirmed the order of the district court,² and denied a subsequent petition for rehearing.³

On March 13, 2003, Brown filed a proper person motion to correct an illegal sentence in the district court. The State opposed the motion. On April 9, 2003, the district court denied Brown's motion. This appeal followed.

In his motion, Brown contended that the State breached the plea agreement, and that his actions did not constitute a crime. Brown specifically argued that his mere presence at a drug agent's residence did not amount to a felony.

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.⁴ "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.'"⁵

Our review of the record on appeal reveals that Brown's sentence fell within the range prescribed by the statute under which he

²Joseph v. State, Docket No. 36649 (Order of Affirmance, December 20, 2001).

³Joseph v. State, Docket No. 36649 (Order Denying Rehearing, January 31, 2002).

⁴Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

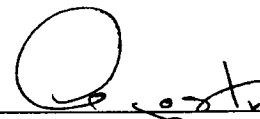
⁵Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).


was convicted.⁶ The claims Brown presented in his motion are outside the scope of a motion to correct an illegal sentence because they concern alleged errors that occurred prior to the imposition of Brown's sentence. Therefore, the district court did not err in denying these claims.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Brown is not entitled to relief and that briefing and oral argument are unwarranted.⁷ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁸


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

cc: Hon. Brent T. Adams, District Judge
Christopher Joseph Brown
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

⁶See NRS 453.3385(3)(b).

⁷See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁸We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.