

IN THE SUPREME COURT OF THE STATE OF NEVADA

LEODIAS EDWARDS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50485

FILED

APR 07 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a motion to correct an illegal sentence. Second Judicial District Court, Washoe County; Robert H. Perry, Judge.

On November 17, 1987, the district court convicted appellant, pursuant to a jury verdict, of two counts of sexual assault with the use of a deadly weapon. The district court sentenced appellant to serve four consecutive terms of life in the Nevada State Prison with the possibility of parole. This court dismissed appellant's appeal from his judgment of conviction.¹ The remittitur issued on January 18, 1989.

On June 6, 2006, appellant filed a proper person motion to correct an illegal sentence in the district court. On October 17, 2007, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended that his due process rights were violated because there was no jury determination of aggravating

¹Edwards v. State, Docket No. 18855 (Order Dismissing Appeal, December 29, 1988).

factors as required by Apprendi v. New Jersey.² Appellant further claimed that a deadly weapon jury instruction was not given and the deadly weapon was not listed in the indictment.

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.³ “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.’”⁴

Our review of the record on appeal reveals that the district court did not err in denying appellant’s motion. Appellant’s claims fell outside the scope of claims permissible in a motion to correct an illegal sentence. Appellant’s sentence was facially legal, and appellant failed to demonstrate that the district court was not a competent court of jurisdiction.⁵ Therefore, we affirm the order of the district court.

²530 U.S. 466 (2000).

³Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

⁴Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).

⁵See 1977 Nev. Stat., ch. 598, § 3, at 1626-27; 1981 Nev. Stat., ch. 780, § 1, at 2050.

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.

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Douglas, J.
Douglas

cc: Hon. Robert H. Perry, District Judge
Leodias Edwards
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

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