

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALBERT E. DAWSON A/K/A ALBERT
EDWARD DAWSON, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52103

FILED

APR 15 2009

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 illegal sentence. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

On December 19, 1991, the district court convicted appellant, pursuant to a guilty plea, of one count of murder, one count of burglary, one count of battery with the use of a deadly weapon, and one count of robbery with the use of a deadly weapon. The district court sentenced appellant to serve two consecutive life terms in the Nevada State Prison without the possibility of parole.

On May 7, 2008, appellant filed a proper person motion to correct an illegal sentence in the district court. On May 22, 2008, appellant filed a motion for the appointment of counsel. The State

opposed the motion. On July 8, 2008, the district court denied appellant's motion. This appeal followed.¹

In his motion, appellant contended that the district court failed to reference the statutes under which he was sentenced in the judgment of conviction as required by NRS 176.105.

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. Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). "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.'" Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).

Based upon our review of the record, we conclude that appellant's requests fell outside the narrow scope of claims permissible in a motion to correct an illegal sentence. Appellant's sentence was facially legal, and the record does not support an argument that the district court was without jurisdiction in this matter. See 1989 Nev. Stat., ch. 408, § 1, at 865-66 and ch. 631, § 1 at 1451; 1989 Nev. Stat., ch. 568, § 1, at 1207; 1991 Nev. Stat., ch. 89, § 1, at 154-55 and ch. 295, § 2, at 774-76; 1967 Nev. Stat., ch. 211, § 59, at 470-71; 1991 Nev. Stat. ch. 403, § 6, at 1059.

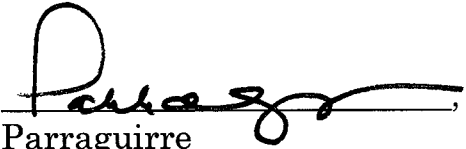
As a separate and independent ground for denying relief, the judgment of conviction referenced the amended information which

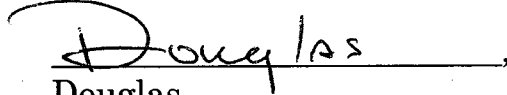
¹To the extent that appellant is challenging the district court's decision not to appoint counsel, we conclude that the district court did not abuse its discretion in declining to appoint counsel in this case.

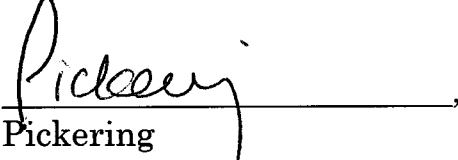
included cites to the necessary statutes. Therefore, the district court did not err in denying the motion.

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

ORDER the judgment of the district court AFFIRMED.

 J.
Parraguirre

 J.
Douglas

 J.
Pickering

cc: Hon. Patrick Flanagan, District Judge
Albert E. Dawson
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk