IN THE SUPREME COURT OF THE STATE OF NEVADA

RANDALL J. WILLIAMS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52773

FILED

AUG 10 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY
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. Eighth Judicial District Court, Clark County; Miriam Shearing, Judge.

On November 2, 2001, the district court convicted appellant, pursuant to a guilty plea, of robbery with the use of a deadly weapon. The district court sentenced appellant to serve a term of 48 to 156 months in the Nevada State Prison, plus an equal and consecutive term for the deadly weapon enhancement. No direct appeal was taken.

On October 16, 2007, appellant filed a motion to modify sentence in the district court. The State opposed the motion. On November 13, 2007, the district court denied the motion. No appeal was taken from the district court's denial of the motion.

On October 13, 2008, appellant filed a motion to correct an illegal sentence. The State opposed the motion. On December 2, 2008, the district court denied the motion. This appeal followed.

In his motion, appellant claimed as follows: (1) the district court erred in imposing the deadly weapon enhancement because the facts of the enhancement should have been found by a jury pursuant to

Apprendi v. New Jersey, 530 U.S. 466 (2000); (2) he was not informed of the deadly weapon enhancement prior to the guilty plea; (3) the plea canvass was inadequate; (4) his plea was not knowingly and intelligently entered; and (5) he did not waive his right to a jury determination of the deadly weapon enhancement.

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 on appeal, we conclude that the district court did not err in denying appellant's motion. Appellant's sentence was facially legal. See NRS 200.380; 1991 Nev. Stat., ch. 403, § 6, at 1059 (NRS 193.165). Further, there is nothing in the record indicating that the district court was without jurisdiction to impose a sentence in this case. Appellant's claims fell outside of the scope of claims permissible in a motion to correct an illegal sentence. Appellant may not challenge the validity of the guilty plea in a motion to correct an illegal sentence. Further, the district court properly applied the deadly weapon enhancement because appellant entered a guilty plea to the crime of robbery with the use of a deadly weapon. See Blakely v. Washington, 542 U.S. 296, 303-04 (2004). 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. See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975). Accordingly, we

ORDER the judgment of the district court AFFIRMED.[1]

Parraguirre, J.

Douglas, J.

Pickering, J.

cc: Chief Judge, Eighth Judicial District
Hon. Miriam Shearing, Senior Justice
Randall J. Williams
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

[1]We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.