

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAY JOSEPH MCGRATH, SR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53047

JAY JOSEPH MCGRATH, SR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53048

FILED

FEB 04 2010

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

ORDER OF AFFIRMANCE

Docket No. 53047 is a proper person appeal from an order of the district court denying appellant's November 22, 2005, motion for reconsideration of sentence or modification or stay of sentence. Docket No. 53048 is a proper person appeal from an order of the district court denying appellant's November 22, 2005, motion for reconsideration of sentence or modification or stay of sentence and from his March 27, 2007, motion to vacate plea of guilty.¹ Second Judicial District Court, Washoe County;

¹We note that appellant's request to the district court in both cases refer to a request filed December 9, 2006, and the district court's order of
continued on next page . . .

Robert H. Perry, Judge. We elect to consolidate these appeals for disposition.² See NRAP 3(b).

Docket No. 53047

Appellant's motion alleged ineffective assistance of counsel at sentencing and was, therefore, outside the scope of either a motion to modify a sentence or a motion to correct an illegal sentence. See Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Therefore, the district court did not err in denying this motion.

Docket No. 53048

Appellant's 2005 motion alleged ineffective assistance of counsel at sentencing and was, therefore, outside the scope of either a motion to modify a sentence or a motion to correct an illegal sentence. Id. Therefore, the district court did not err in denying this motion.

Appellant's first claim in his 2007 motion—that his 14th Amendment rights were violated—was a bare allegation unsupported by facts, and he was therefore entitled to no relief on those grounds. See Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984).

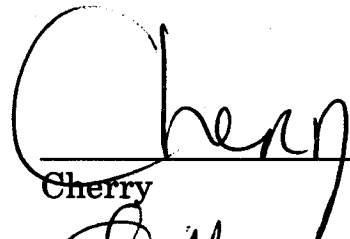
... continued

denial refers to motions in both cases filed on March 29, 2006, and March 16, 2007. No motions were filed on any of those dates.

²These appeals have been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the records are sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

Appellant's remaining claims challenged actions that occurred prior to the entry of his guilty plea and were therefore waived. See Webb v. State, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975). Therefore, the district court did not err in denying this motion. Accordingly, we


ORDER the judgment of the district court AFFIRMED.³

 J.

Cherry

 J.

Saitta

 J.

Gibbons

cc: Hon. Robert H. Perry, District Judge
Jay Joseph McGrath Sr.
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

³We 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.