

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LARRY SULLIVAN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 84576-COA

**FILED**

DEC 15 2022

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Larry Sullivan appeals from an order of the district court denying a motion to correct an illegal sentence<sup>1</sup> filed on January 28, 2022. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

In his motion, Sullivan argued that his aggregate total sentence exceeded the statutory maximum under the terms of the guilty plea agreement. 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

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<sup>1</sup>Sullivan labeled his motion alternatively as a motion “for specific performance of guilty plea agreement.” To the extent Sullivan appeals from the denial of such a motion, no statute or court rule permits an appeal from an order denying a motion for specific performance of guilty plea agreement. Therefore, we lack jurisdiction to consider this portion of Sullivan’s appeal and order it dismissed. *See Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990) (“We have consistently held that the right to appeal is statutory; where no statutory authority to appeal is granted, no right to appeal exists.”).

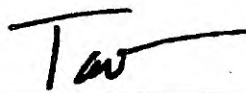
proceedings that occur prior to the imposition of sentence.” *Id.* (internal quotation marks omitted).

Sullivan was convicted of three counts of robbery with the use of a deadly weapon. For each count, he was sentenced to 4 to 10 years in prison for the robbery and to 2 to 5 years in prison for the deadly weapon enhancement, and all sentences were ordered to run consecutively. These sentences are within the parameters provided by the relevant statutes. *See* NRS 176.035; NRS 193.165(1)-(2); NRS 200.380(2). As such, Sullivan failed to demonstrate that the sentence imposed was in excess of the statutory maximum. And Sullivan did not contend that the district court lacked jurisdiction to impose a sentence.

To the extent Sullivan argues he did not understand that the sentencing range identified in the guilty plea agreement would apply to each count, his sentence exceeded the maximum sentence contemplated by the guilty plea agreement, and that the State violated the terms of the guilty plea agreement, these claims fell outside the narrow scope of claims permissible in a motion to correct an illegal sentence. *See id.* Therefore, we conclude the district court did not err by denying Sullivan’s motion to correct an illegal sentence. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Chief Judge, Eighth Judicial District Court  
Eighth Judicial District Court, Department 17  
Karen A. Connolly, Ltd.  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk