

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTHONY DEWANE BAILEY,
Appellant,
vs.
NEVADA PAROLE BOARD; ERIC
CHRISTIANSEN; LAMICIA BAILEY;
DONNA VERCHIO; TONY CORDA;
SUSAN L. JACKSON; ADAM ENGEL;
KATE FRAKER; CHARLES DANIELS;
AND THE STATE OF NEVADA,
Respondents.

No. 86604-COA

FILED
JAN 30 2024
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Anthony Dewane Bailey appeals from an order of the district court denying a motion to correct an illegal sentence.¹ Eighth Judicial District Court, Clark County; Christy L. Craig, Judge.

Bailey argues the district court erred by denying his motion. 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

¹A document entitled “motion to correct illegal sentence pursuant to NRS 176.555 (Brooks v. State case no. S.Ct. 22285)” was stamped as received by the district court clerk on October 4, 2022. We note that even though the motion is in the record, it was never filed, and the record does not reflect that the district court clerk’s office notified Bailey that his motion was not filed. Bailey filed a “motion requesting of court to formally review motion to correct illegal sentence” on March 22, 2023, which incorporated by reference Bailey’s motion to correct illegal sentence.

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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.* (internal quotation marks omitted).

In his motion, Bailey first claimed there is no statutory crime that gives public notice that “sexual assault without the use of a deadly weapon” is a crime in the state of Nevada. He argued that, as a result, his sentence is illegal and his imprisonment rests solely upon a materially untrue assumption that he was convicted of a statutory offense. Bailey has previously raised arguments that “sexual assault without the use of a deadly weapon” is not a statutory crime, and both the Nevada Supreme Court and this court have rejected that claim. *See Bailey v. State*, No. 67108, 2016 WL 5820450 (Nev. Sep. 30, 2016) (Order of Affirmance); *Bailey v. State*, No. 75489-COA, 2019 WL 1754654 (Nev. Ct. App. Apr. 16, 2019) (Order of Affirmance). Thus, Bailey’s claim is barred by the doctrine of the law of the case, which “cannot be avoided by a more detailed and precisely focused argument.” *Hall v. State*, 91 Nev. 314, 315-16, 535 P.2d 797, 798-99 (1975). Accordingly, we conclude the district court did not err by denying this claim.

Bailey also claimed below that his judgment of conviction does not include a citation to the large habitual criminal statute, a letter of incarceration from the Nevada Department of Corrections shows that its internal tracking software does not recognize “sexual assault without the use of a deadly weapon” as a statutory crime, and the criminal process in Clark County is racist. These claims were outside the scope of claims allowed to be raised in a motion to correct an illegal sentence. *Edwards*, 112 Nev. at 708, 918 P.2d at 324. Therefore, we conclude the district court did not err by denying these claims.

On appeal, Bailey claims it is criminal conduct for a criminal court in the state of Nevada to imprison a criminal defendant on an implied acquittal verdict. This claim was not raised in his motion below, and we decline to consider it for the first time on appeal. *See McNelton v. State*, 115 Nev. 396, 415-16, 990 P.2d 1263, 1275-76 (1999). Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Christy L. Craig, District Judge
Anthony Dewane Bailey
Attorney General/Carson City
Attorney General/Las Vegas
Clark County District Attorney
Eighth District Court Clerk

²We have reviewed Bailey's "judicial notice pursuant to Chapter 47 of NRS," filed on January 10, 2024, and we conclude no relief based upon that document is warranted.