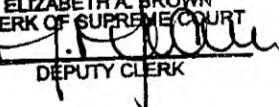


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LAWRENCE EUGENE RIDER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 87291-COA

**FILED**  
MAY 08 2024  
ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Lawrence Eugene Rider appeals from a district court order denying a motion to correct an illegal sentence and a motion for appointment of counsel, both filed on July 25, 2023. Eighth Judicial District Court, Clark County; Jennifer L. Schwartz, Judge.

In his motion to correct an illegal sentence, Rider claimed that his sentence was illegal because (1) NRS 200.366(2)(a) requires proof of substantial bodily harm and no such proof exists; (2) NRS 200.366(2)(b)(2) only permits definite terms of imprisonment; and (3) the generic term of life imprisonment does not specify the minimum parole eligibility term. 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).

Rider was convicted of sexual assault in 1984, and neither the information nor the judgment of conviction indicates that the sexual assault resulted in substantial bodily harm. Rider's sentence of life imprisonment does not exceed the maximum allowed by statute at the time Rider committed the crime; NRS 200.366(2)(b)(1) permitted a district court to

punish a person convicted of sexual assault not resulting in substantial bodily harm “[b]y imprisonment in the state prison for life, with possibility of parole, beginning when a minimum 5 years has been served.”<sup>1</sup> 1977 Nev. Stat., ch. 598, § 3, at 1626-27; see *State v. Second Jud. Dist. Ct. (Pullin)*, 124 Nev. 564, 567, 188 P.3d 1079, 1081 (2008) (“[U]nless the Legislature clearly expresses its intent to apply a law retroactively, . . . the proper penalty is the penalty in effect at the time of the commission of the offense.”). Moreover, the sentencing court’s failure to specify the minimum parole eligibility term does not render the sentence facially illegal nor does it implicate the jurisdiction of the district court.<sup>2</sup> Therefore, we conclude Rider is not entitled to relief on this claim.

Rider also claimed that (1) the sentencing judge rejected as irrelevant his argument that the victim did not suffer substantial bodily harm; (2) the sentencing judge substituted the statutory factor of substantial bodily harm for the sentencing factor of severe psychological damage; (3) the sentencing judge mistakenly believed he was responsible for the trauma that induced the victim’s lack of cooperation with authorities; (4) his denial of the allegations contained in the presentence investigation report did not render him a danger to the community; (5) the information does not state the charge of sexual assault involved the use of

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<sup>1</sup>Although the judgment of conviction does not specify the specific subsection of NRS 200.366 under which Rider was sentenced, we note that NRS 200.366(2)(b)(1) was the only provision that permitted a district court to impose a sentence of life imprisonment against persons convicted of sexual assault not resulting in substantial bodily harm.

<sup>2</sup>The State argued in its opposition below, and Rider implicitly agreed in his reply to that opposition, that Rider received his first parole hearing within five years of his conviction.

force or violence; (6) requiring the Nevada Department of Corrections to select the minimum term he must serve before becoming eligible for parole violates the separation of powers doctrine; and (7) his sentence violated the Equal Protection Clause, NRS 194.010, and the prohibition against cruel and unusual punishment. Without considering the merits of these claims, we conclude they fall outside the narrow scope of claims permissible in a motion to correct an illegal sentence. Therefore, we conclude the district court did not err by denying Rider's motion.

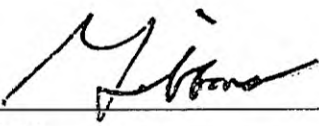
On appeal, Rider contends that (1) "[a] life sentence cannot be imposed under N.R.S. 200.366(2)(b)(1) because arbitrarily carrying a 5 year minimum term that cannot be reduced by work and good behavior by operation of N.R.S. 209.443(5)"; and (2) a sentence of life imprisonment was not authorized because he "cannot be required to serve more than one specific minimum term for a single conviction." Rider did not raise these claims in his motion below, and we decline to consider them for the first time on appeal. *See McNelton v. State*, 115 Nev. 396, 415-16, 990 P.2d 1263, 1275-76 (1999).

Rider also contends the district court failed to make findings of fact and conclusions of law as required by NRAP 4(b)(5)(B). The district court may summarily deny a motion to correct an illegal sentence if the motion raises issues that fall outside of the very narrow scope of issues permissible in such a motion. *Edwards*, 112 Nev. at 708 n.2, 918 P.2d at 325 n.2. As previously discussed, several of Rider's claims were outside the narrow scope of claims permissible in a motion to correct an illegal sentence; thus, the district court did not err by summarily denying these claims. Moreover, the lack of specific findings of fact with respect to Rider's remaining claim has not hampered this court's ability to review the claim

on appeal. Therefore, we conclude Rider is not entitled to relief on this claim. See NRS 178.598 ("Any error, defect, irregularity or variance which does not affect substantial rights shall be disregarded.").

Rider also contends the district court erred in denying his motion for the appointment of counsel. No statute or court rule allows for the appointment of counsel for a motion to correct an illegal sentence. Therefore, Rider fails to demonstrate the district court erred by denying his motion for the appointment of counsel. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Jennifer L. Schwartz, District Judge  
Lawrence Eugene Rider  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk