

IN THE UTAH COURT OF APPEALS

-----ooOoo-----

State of Utah,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20100711-CA
v.)	
)	F I L E D
Donald Lee Snyder,)	(November 12, 2010)
)	
Defendant and Appellant.)	2010 UT App 323

Third District, Salt Lake Department, 071902947
The Honorable Judith S. Atherton

Attorneys: Elizabeth A. Lorenzo, Salt Lake City, for Appellant

Before Judges Davis, Orme, and Roth.

PER CURIAM:

Donald Lee Snyder appeals the trial court's denial of his motion to correct an illegal sentence pursuant to rule 22(e) of the Utah Rules of Criminal Procedure. This is before the court on its own motion for summary disposition based on the lack of a substantial question for review.

After Snyder pleaded guilty to three second degree felonies, he was sentenced to three consecutive terms of one to fifteen years. Snyder argues that this is an illegal sentence because the maximum of forty-five years exceeds the statutory limitation of thirty years pursuant to Utah Code section 76-3-401(6). Section 76-3-401(6)(a) provides that if consecutive sentences are imposed, "the aggregate maximum of all sentences imposed may not exceed 30 years imprisonment." Utah Code Ann. § 76-3-401(6)(a) (2008).

However, the limitation of that subsection "may not be construed to restrict the number or length of individual consecutive sentences that may be imposed or to affect the validity of any sentence so imposed, but only to limit the length of sentences actually served under the commitments." *Id.* § 76-3-401(10). Accordingly, the trial court has the authority to impose consecutive sentences even if the total of the maximums exceeds thirty years. But, by operation of law, that maximum

sentence is limited to thirty years to be served. When the sum of the maximum terms of consecutive sentences exceeds thirty years, the Board of Pardons and Parole (the Board) "shall treat the defendant as though he has been committed for a single term" with the maximum sentence to be considered as thirty years. Id. § 76-3-401(8)(a).

Therefore, the trial court did not impose an illegal sentence. Although the maximum of the three terms is forty-five years, the maximum term of imprisonment is limited to thirty years by operation of law.

Snyder asserts that the sentence is being illegally enforced because the Board lists his expiration date as the full forty-five years. However, the same document shows that Snyder is scheduled for a parole hearing in 2027, which falls within the statutory range. Accordingly, it appears that any claim he has that he may be at risk of serving forty-five years is not ripe. Additionally, the enforcement of the sentence is separate from the imposition of the sentence. As explained above, the trial court imposed a legally valid sentence.

Accordingly, the trial court's order is affirmed.

James Z. Davis,
Presiding Judge

Gregory K. Orme, Judge

Stephen L. Roth, Judge