

IN THE UTAH COURT OF APPEALS

-----ooOoo-----

| | | |
|--------------------------|---|---|
| State of Utah, |) | MEMORANDUM DECISION |
| |) | (Not For Official Publication) |
| Plaintiff and Appellee, |) | |
| |) | Case No. 20080212-CA |
| v. |) | |
| |) | F I L E D |
| Michael A. Bacon, |) | (October 23, 2008) |
| |) | |
| Defendant and Appellant. |) | 2008 UT App 381 |

Sixth District, Richfield Department, 071600015, 071600016,
071600082, 071600112, 071600133
The Honorable David L. Mower

Attorneys: Michael A. Bacon, Draper, Appellant Pro Se
Mark L. Shurtleff and Kris C. Leonard, Salt Lake
City, for Appellee

Before Judges Thorne, Bench, and Orme.

PER CURIAM:

Michael A. Bacon appeals the district court's order denying his motion to correct an illegal sentence under rule 22(e) of the Utah Rules of Criminal Procedure.

Bacon claims that he received an illegal sentence because the district court failed to rule on a motion to suppress evidence prior to accepting Bacon's plea of guilty. Bacon argues that the district court lacked jurisdiction to accept his guilty plea until it resolved the motion to suppress. Bacon's claim fails for two reasons. First, "issues concerning the validity of a conviction are not cognizable under rule 22(e)." State v. Brooks, 908 P.2d 856, 860 (Utah 1995). As a result, "an appellate court may not review the legality of a sentence [under rule 22(e)] when the substance of the appeal is . . . a challenge, not to the sentence itself, but to the underlying conviction." State v. Finlayson, 2000 UT 10, ¶ 8, 994 P.2d 1243. Here, Bacon does not argue that the sentences he received were illegal. Instead, Bacon challenges the plea upon which those sentences were based. Accordingly, he is challenging the validity of the convictions, not the legality of the sentences. Because Bacon's claim attacks the validity of his convictions

instead of his sentences, he is not entitled to relief under rule 22(e).

Second, by entering his guilty plea, Bacon waived a ruling on his motion to suppress. "The general rule applicable in criminal proceedings . . . is that by pleading guilty, the defendant is deemed to have admitted all of the essential elements of the crime charged and thereby waives all nonjurisdictional defects, including alleged pre-plea constitutional violations." State v. Parsons, 781 P.2d 1275, 1278 (Utah 1989).

We therefore affirm.

William A. Thorne Jr.,
Associate Presiding Judge

Russell W. Bench, Judge

Gregory K. Orme, Judge