


IN THE SUPREME COURT OF THE STATE OF NEVADA

DONALD LEYBA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55235

FILED

SEP 10 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an amended judgment of conviction, pursuant to a guilty plea, of driving under the influence of alcohol, a third offense. First Judicial District Court, Carson City; James E. Wilson, Judge.

Appellant Donald Leyba argues that the district court erred in sua sponte amending the judgment of conviction to correct an illegal sentence after he began serving the sentence. We conclude that this argument lacks merit.

The parties agree that the sentence was “illegal” in that it did not comply with NRS 484.3943 (currently codified as NRS 484C.460). The district court has authority to correct an illegal sentence at any time, NRS 176.555, and may correct an illegal sentence by increasing the sentence after the defendant has begun serving it so long as “there is no other, less severe means of correcting the illegality,” Miranda v. State, 114 Nev. 385, 387, 956 P.2d 1377, 1378 (1998). Leyba does not contend that there was another, less severe means of correcting the illegality, and he has not provided any authority in support of his suggestion that the district court had to give him notice before correcting the illegal sentence. See Maresca

v. State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) (explaining that it is appellant's obligation to provide this court with relevant authority). While it may be the better practice to give the parties notice and an opportunity to be heard before the court corrects an illegal sentence on its own motion, we are not convinced that any procedural error in this respect warrants relief under the circumstances presented. Accordingly, we

ORDER the amended judgment of conviction AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. James E. Wilson, District Judge
State Public Defender/Carson City
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk