

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT EARL JONES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58950

FILED

DEC 07 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Angel*
DEPUTY CLERK

ORDER AFFIRMING IN PART, REVERSING IN PART AND
REMANDING

This is a proper person appeal from an order of the district court denying a “motion to correct clerical mistakes, to correct or modify verdict and judgment, or vacate judgment.”¹ Eighth Judicial District Court, Clark County; Michael Villani, Judge.

In his petition, filed on June 16, 2011, appellant claimed that his record contained clerical mistakes, the trial court erred in instructing the jury pursuant to Kazalyn v. State, 108 Nev. 67, 825 P.2d 578 (1992), and his judgment of conviction was facially defective because it failed to specify the subsection of the statute pursuant to which he was convicted. The record on appeal supports the decision of the district court to deny relief. To the extent that appellant sought to modify or correct an illegal sentence, appellant failed to identify any clerical mistakes, and his claims otherwise fell outside the very narrow scope of claims permissible in those motions. Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). To the extent appellant’s claims challenged the validity of his judgment of

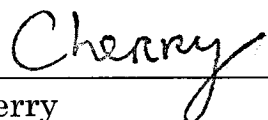
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).


conviction, they must be raised in a post-conviction petition for a writ of habeas corpus filed in the district court. NRS 34.720; NRS.34.724(2)(b).²

In denying appellant's motion, the district court found that appellant has a history of pursuing vexatious litigation, see NRS 209.451(1)(d), and referred appellant to the Director of the Department of Corrections to determine what forfeiture of credits, if any, were warranted. We conclude that the district court erred, because it had no authority to refer appellant for the forfeiture of credits based on the instant motion. The plain language of the statute is that it applies only to civil actions. NRS 209.451(1)(d). NRS 209.451(5) includes in the definition of "civil actions" a petition for a writ of habeas corpus, but appellant's motion was not such a petition. We therefore reverse this portion of the district court's order and remand this matter for the district court to correct its decision.

For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED IN PART AND REVERSED IN PART AND REMAND this matter to the district court for proceedings consistent with this order.


_____, J.
Cherry


_____, J.
Gibbons


_____, J.
Pickering

²We express no opinion as to whether appellant could meet the procedural requirements of NRS chapter 34.

cc: Hon. Michael Villani, District Judge
Robert Earl Jones
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk