

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

REGINALD CLARENCE HOWARD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 67583

FILED

AUG 05 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE


This is an appeal from a district court order denying a motion to correct an illegal sentence.¹ Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

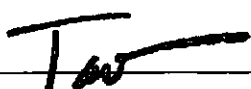
In his motion filed on December 8, 2014, appellant Reginald Howard claimed his sentence was illegal because he was convicted of violating NRS 205.275 and his sentence of 20 years exceeds the maximum permitted by that statute. He also asserted his sentence was illegal because, although the court stated it was sentencing him as a habitual criminal, the judgment of conviction does not cite to NRS 207.010 as required by NRS 176.105(1)(c). Finally, he asserts the district court lacked jurisdiction to enter an amended judgment of conviction on May 20, 1993, because he had an appeal pending in the Nevada Supreme Court at that time.

¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude 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).

Howard failed to demonstrate that his sentence was facially illegal or the district court lacked jurisdiction. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Although the judgment of conviction entered on July 27, 1988, does not reference NRS 207.010, the judgment clearly states that Howard was sentenced a habitual criminal. Further, at the time the judgment of conviction was entered, NRS 176.105(1)(c) did not require a reference to the statute under which the defendant was sentenced. 1979 Nev. Stat., ch. 571, § 2, at 1124. Finally, Howard's pending appeal from the denial of a post-conviction petition for a writ of habeas corpus was a collateral matter and did not divest the district court of jurisdiction to enter an amended judgment of conviction that awarded Howard presentence credit. *Cf. Foster v. Dingwall*, 126 Nev. 49, 52, 228 P.3d 453, 455 (2010) (explaining the district court retains limited jurisdiction to rule on matters independent of or collateral to the appealed order after filing of the notice of appeal despite the general rule that perfection of an appeal divests the district court of jurisdiction). Therefore, we conclude the district court did not err in denying Howard's motion, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Kathleen E. Delaney, District Judge
Reginald Clarence Howard
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk