

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL LEON WILLIAMS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 73168

FILED

APR 11 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Michael Leon Williams appeals from an order of the district court denying the motion to correct an illegal sentence he filed on March 16, 2017.¹ Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

In his motion, Williams claimed the district court exceeded its jurisdiction by sentencing him as a habitual criminal because the habitual criminal statute is unconstitutional because it is vague and ambiguous and the habitual criminal statute can be applied in a discriminatory manner. Williams also claimed the district court exceeded its jurisdiction by sentencing him for destroying evidence because that count was dismissed at the preliminary hearing. Williams' claims fell outside the narrow scope

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

of claims permissible in a motion to correct an illegal sentence. See *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Therefore, without considering the merits of any of these claims, we conclude the district court did not err by denying them.²


Williams also claimed the district court exceeded its jurisdiction by sentencing him as a habitual criminal because the State did not include the habitual criminal enhancement in the information as a separate count. Williams 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). Even if it was error for the State to file a notice of habitual criminality, rather than amending the information to include a habitual criminal allegation, such an error did not affect Williams' substantial rights and did not deprive the district court of jurisdiction. *Lachance v. State*, 130 Nev. 263, 276, 321 P.3d 919, 928 (2014) (The "purpose of NRS 207.010(2) is to ensure that the defendant has notice that


²On appeal, Williams claims the amended judgment of conviction is defective for failing to include the subsection under which Williams was sentenced. This claim was not raised below, and we decline to consider it for the first time on appeal. See *McNelson v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999).

Williams also claims the State's response to his motion was late and the State abbreviated NRS 207.010(2), changing how it reads. Even assuming the State's response was late or the State misquoted the statute, Williams fails to demonstrate he was prejudiced because his claims were outside the scope of a motion to correct an illegal sentence.

the State will request habitual criminal adjudication.”). Accordingly, we conclude the district court did not err by denying Williams’ motion, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Susan Johnson, District Judge
Michael Leon Williams
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk