

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GREGORY LYNN HARRIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74456

FILED

JUL 20 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER AFFIRMING AND REMANDING

Gregory Lynn Harris appeals from an order of the district court denying the motion to correct an illegal sentence filed on October 6, 2017.¹ Eighth Judicial District Court, Clark County; Kerry Louise Earley, Judge.


In his motion, Harris claimed his sentence was illegal because his sentence exceeded the statutory maximum for the crimes he was convicted of, the district court judge who sentenced him did not sign the original judgment of conviction, and the amended judgment of conviction was improperly filed while his appeal was pending.


Harris failed to demonstrate 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). Harris' sentence is within the parameters of the relevant statute, *see* NRS 207.010(1)(b), and therefore is facially legal. Further, the signing of the original judgment of conviction by a judge different than the sentencing judge and entry the amended judgment of conviction while Harris' direct appeal was pending, did not render Harris'

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

sentence illegal. Therefore, we conclude the district court did not err by denying Harris' motion. However, we note the filing of the amended judgment of conviction while Harris' direct appeal was pending was improper. See *Buffington v. State*, 110 Nev. 124, 126, 868 P.2d 643, 644 (1994). Therefore, we remand this matter to the district court to vacate the amended judgment of conviction and enter a second amended judgment of conviction reflecting that Harris was adjudicated as a habitual criminal and sentenced pursuant to NRS 207.010(1)(b). Accordingly, we

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


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Kerry Louise Earley, District Judge
Gregory Lynn Harris
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk