

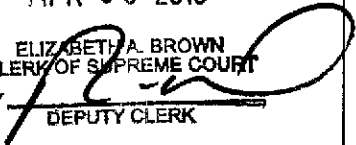
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ESTEBAN HERNANDEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 76410-COA

FILED

APR 05 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Esteban Hernandez appeals from a district court order denying a motion to correct an illegal sentence filed on June 5, 2018.¹ Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Hernandez claims his sentence is illegal because the judgment of conviction does not state the parole eligibility terms or reference the applicable provision of the statute for determining parole eligibility.

NRS 176.555 states a district “court may correct an illegal sentence at any time.” A motion to correct an illegal sentence, however, may only challenge the facial legality of the sentence; either the district court was without jurisdiction to impose a sentence or the sentence was imposed in excess of the statutory maximum. *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

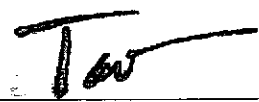
Hernandez’ claim fell outside the narrow scope of claims permissible in a motion to correct an illegal sentence because it did not implicate the jurisdiction of the district court, *see* Nev. Const. art 6, § 6; NRS


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

171.010, and his sentence is facially legal, *see* NRS 193.165(1) (1995); NRS 200.030(4)(b)(2) (1995).² Accordingly, the district court did not err by denying his motion, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Michelle Leavitt, District Judge
Esteban Hernandez
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²Hernandez' judgment of conviction plainly states he was convicted of first-degree murder with the use of a deadly weapon, he committed the crime in 1998, the crime was a violation of NRS 200.030 and NRS 193.165, and he was sentenced to two consecutive prison terms of life with the possibility of parole. At the time of Hernandez' crime, NRS 200.030(4)(b)(2) stated that parole eligibility for a sentence of life with the possibility of parole begins "when a minimum of 20 years has been served," 1995 Nev. Stat., ch. 443, § 44, at 1181, and NRS 193.165(1) stated that a sentence imposed for the use of a deadly weapon must be equal and consecutive to the sentence imposed for the primary offense, 1995 Nev. Stat., ch. 455, § 1, at 1431. And at the time of Hernandez' sentencing, NRS 176.105(1)(c) stated, "the judgment of conviction must set forth . . . a reference to the statute under which the defendant is sentenced and, *if necessary* to determine eligibility for parole, the applicable provision of the statute." 1997 Nev. Stat., ch. 257, § 1, at 905-06 (emphasis added).