

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LEWIS W. STEWART, A/K/A LEWIS
WILLIAM VELAZQUEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

LEWIS W. STEWART, A/K/A LEWIS
WILLIAM VELAZQUEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 70052 ✓

FILED

DEC 28 2016

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

No. 70544

ORDER OF AFFIRMANCE

Appellant Lewis Stewart appeals from an order of the district court denying a motion to correct an illegal sentence and a motion to modify sentence both filed on January 26, 2016 (Docket No. 70052), and an order of the district court denying a motion to correct an illegal sentence filed on January 26, 2016 and a NRCP 59(e) motion for relief from judgment filed on March 30, 2016 (Docket No. 70544).¹ Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

¹These appeals have been submitted for decision without oral argument. NRAP 34(f)(3).

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Stewart argues the district court erred by denying his motion to correct an illegal sentence because his sentence is illegal. Specifically, he claimed his sentence was illegal because the enhancements imposed pursuant to NRS 193.167 for different counts ran consecutively to each other and because the sentence was excessive. Stewart's sentences fall within the parameters of the relevant statutes, *see* NRS 205.060(2); NRS 200.481(2)(b); NRS 200.380(2); NRS 200.320(2); NRS 199.480(1)(a); 1999 Nev. Stat., ch. 18, § 1, at 42-43, (former NRS 193.167), and imposition of consecutive sentences was within the district court's discretion, *see* NRS 176.035(1). Thus, Stewart 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). Therefore, we conclude the district court did not err in denying Stewart's motion to correct an illegal sentence.


Stewart also argues the district court erred by denying his motion to modify sentence because the State made improper argument at sentencing regarding Stewart's conduct during the crimes and about the severity of the injuries suffered by the victim. Stewart failed to


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The district court denied the motion to correct an illegal sentence and the motion to modify sentence on March 11, 2016. It appears from the record the district court decided to reconsider its denial of the motion to correct an illegal sentence and entertained briefing from the parties. On May 9, 2016, the district court heard argument from the parties and again denied the motion to correct an illegal sentence and denied an NRCP 59(e) motion for relief from judgment on May 24, 2016.

demonstrate the district court, at sentencing, relied on mistaken assumptions regarding his *criminal record* that worked to his extreme detriment. *See id.* Therefore, we conclude the district court did not err in denying Stewart's motion to modify sentence. Accordingly, we

ORDER the judgments of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Douglas Smith, District Judge
Lewis W. Stewart
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk