

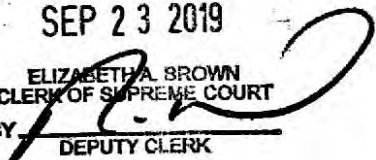
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRIAN KERRY O'KEEFE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 77541-COA

FILED

SEP 23 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Brian Kerry O'Keefe appeals from a district court order denying his motion to correct a facially illegal sentence that was filed on October 31, 2018. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

O'Keefe claims the district court erred by denying his motion to correct an illegal sentence. A motion to correct an illegal sentence may address only 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).

In his motion below, O'Keefe claimed the district court lacked jurisdiction to sentence him because a certificate of appealability had been issued in his federal proceeding, wherein he raised a double jeopardy claim. The authority O'Keefe cites does not support his claim, and the issuance of a certificate of appealability in his federal proceeding did not divest the

district court of jurisdiction in his state court proceedings. Accordingly, we conclude the district court did not err by denying O'Keefe's motion, and we ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Michael Villani, District Judge
Brian Kerry O'Keefe
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk