

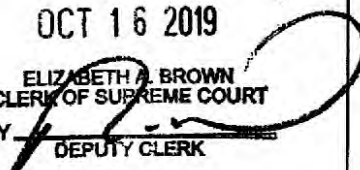
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROBERT STEPHEN JACKSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 76839-COA

FILED

OCT 16 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Robert Stephen Jackson appeals from the district court's "Amended Order Denying Defendant's Motion to Correct an Illegal Sentence on Rehearing." Eighth Judicial District Court, Clark County; Ronald J. Israel, Judge.

Jackson claims the district court erred by construing his motion to correct an illegal sentence as a postconviction petition for a writ of habeas corpus. Although we agree that it would have been improper for the district court to construe Jackson's motion to correct an illegal sentence as a postconviction petition for a writ of habeas corpus, the record before this court does not clearly demonstrate that the district court so construed Jackson's motion.

At the hearing on the motion, the district court repeatedly stated that the parties were there on a writ and the district court initially ordered the writ denied. Upon a request for clarification by Jackson's counsel, the court recognized that Jackson called the document a motion to correct an illegal sentence, but then stated: "I think, well, motion or writ, either way, if you will, I think it's the same thing." However, the court subsequently corrected itself, and the court ultimately stated it was denying

19-42793

Jackson's motion to correct an illegal sentence. Given these circumstances, we conclude Jackson is not entitled to relief based on this claim.

Jackson also claims the district court erred by denying his motion based on facts and arguments that were never raised by the parties. Jackson alleges the district court relied on factual and sufficiency arguments to deny his motion.

At the hearing on the motion, the district court stated that Jackson was attacking his convictions and the sufficiency of the evidence. However, the record demonstrates that Jackson did not challenge the sufficiency of the evidence to support the convictions. Rather, Jackson alleged that, because his three attempted murder convictions all arose from the act of shooting at Marquell Scott, but missing him and hitting other individuals, his actions only constituted one offense. Based on this, Jackson argued the Double Jeopardy Clause prohibited the imposition of three consecutive sentences, and therefore, the district court exceeded its authority and imposed a sentence in excess of the statutory maximum by sentencing him to three consecutive terms. The district court ultimately concluded the Double Jeopardy Clause was not implicated and denied Jackson's motion.

Although the district court mischaracterized Jackson's claim as an attack on the sufficiency of the evidence, it was not a mischaracterization of the issue to state Jackson was attacking his conviction. Despite Jackson's assertions that he was only challenging the district court's jurisdiction to impose the sentence it did, Jackson's double jeopardy claim also necessarily challenged the validity of the conviction. And the district court reached the correct result in determining the Double Jeopardy Clause was not implicated. The Double Jeopardy Clause prohibits "multiple punishments

for the same offense,” *Jackson v. State*, 128 Nev. 598, 604, 291 P.3d 1274, 1278 (2012); however, here, each shot Jackson fired that hit a different individual constituted a separate offense. Because the district court reached the correct result, we conclude the district court’s partial mischaracterization of the issue raised does not warrant any relief.

To the extent Jackson argues the district court erred by denying his motion to correct an illegal sentence, this claim lacks merit. Even assuming, without deciding, Jackson’s double jeopardy claim was properly raised in a motion to correct an illegal sentence, *see Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996) (identifying the scope of a motion to correct an illegal sentence), because he was convicted of, and punished for, three separate offenses, he did not demonstrate that the imposition of consecutive sentences resulted in a facially illegal sentence, *see NRS 176.035(1)* (giving the district court discretion to impose consecutive sentences when the defendant is convicted of two or more offenses). Accordingly, we conclude the district court did not err by denying the motion to correct an illegal sentence, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Ronald J. Israel, District Judge
Mayfield, Gruber & Sheets
Nevada Appeal Group, LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk