

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RANDOLPH JAMES MCGUIRE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 79509-COA

FILED

JUN 12 2020

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

ORDER OF AFFIRMANCE

Randolph James McGuire appeals from an order of the district court denying a motion for correction of illegal sentence filed on June 14, 2019. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

McGuire claimed the district court illegally resentenced him to a greater sentence when it filed an amended judgment of conviction removing language that indicated what McGuire's aggregate sentence would be. McGuire 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).

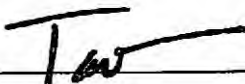
First, we note McGuire did not challenge the facial legality of, or the district court's jurisdiction to impose, his underlying sentences. Second, the district court did not resentence McGuire. It simply removed superfluous verbiage from his judgment of conviction. Finally, the removal of the language indicating what the aggregate of McGuire's consecutive sentences are did not change McGuire's underlying sentences or affect the


application of credits to his minimum sentences.¹ We therefore conclude the district court did not err by denying McGuire's motion.

McGuire contends in his informal brief on appeal that the district court breached the guilty plea agreement. This claim was not raised below, and we need not consider it on appeal in the first instance. See *McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999). We note, however, that the claim falls outside the narrow scope of claims permissible in a motion to correct an illegal sentence. See *Edwards*, 112 Nev. at 708, 918 P.2d at 224. We therefore conclude McGuire is not entitled to relief on this claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

¹NRS 176.035(1) requires judgments of conviction to include aggregate sentences where consecutive sentences are imposed for crimes committed on or after July 1, 2014. Offenders such as McGuire who committed crimes prior to that date may nevertheless make a request to the Nevada Department of Corrections to have their sentences aggregated. See NRS 213.1212(5).

cc: Hon. Michelle Leavitt, District Judge
Randolph James McGuire
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk