

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANDREW ALFRED MARTINEZ, III,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 79575-COA

**FILED**

**JUN 12 2020**

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

*ORDER OF AFFIRMANCE*


Andrew Alfred Martinez, III, appeals from an order of the district court denying a “petition for sentence modification NRS 34.720, FRCP Rule 35(b) Illegal Sentence.” Eighth Judicial District Court, Clark County; David M. Jones, Judge.

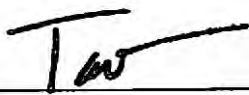
In his pleading, filed on June 20, 2019, Martinez appears to be asking for a modification of his sentence to reflect changes allegedly made to criminal statutes after he was convicted. Martinez’s claims fell outside the narrow scope of claims permissible in a motion to modify or correct an illegal sentence. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Therefore, without considering the merits of any of the claims raised, we conclude the district court did not err by denying the motion. To the extent Martinez was challenging the validity of his judgment of conviction, his claims must be raised in a postconviction petition for a writ of habeas corpus filed with the clerk of the district court for the county in

which the conviction occurred.<sup>1</sup> See NRS 34.720(1); NRS 34.724(2)(b); NRS 34.738(1).

Finally, Martinez raised new arguments before this court on appeal. As these claims were not raised below, we decline to consider them on appeal in the first instance. *McNelson v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999). We note that challenges to the computation of time served must be raised in a separate postconviction petition for a writ of habeas corpus filed with the clerk of the district court for the jurisdiction in which the offender is incarcerated. See NRS 34.720(2); NRS 34.724(2)(c); NRS 34.738(1), (3). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. David M. Jones, District Judge  
Andrew Alfred Martinez, III  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>1</sup>We express no opinion as to whether Martinez could meet the procedural requirements of NRS chapter 34.