

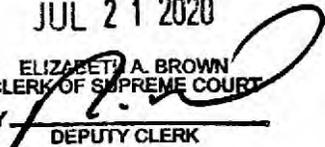
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAIME ENRIQUE OSORIO ACEITUN,
A/K/A JAIME ENRIQUE ACEITUN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 79775-COA

FILED

JUL 21 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Jaime Enrique Osorio Aceitun appeals from a district court order denying an amended petition for a writ of coram nobis. Eighth Judicial District Court, Clark County; David Barker, Senior Judge.

Aceitun was initially charged with open or gross lewdness. He was convicted pursuant to a guilty plea of annoying a child in violation of NRS 207.260. He was sentenced to credit for time served and ordered to register as a sex offender. A year later, the Nevada Supreme Court concluded that NRS 207.260 was “facially void and unconstitutional.” *City of Las Vegas v. Eighth Judicial Dist. Court*, 118 Nev. 852, 861, 59 P.3d 477, 479 (2002), *abrogated by State v. Castaneda*, 126 Nev. 478, 482 n.1, 245 P.3d 550, 553 n.1 (2010). Many years later, Aceitun filed the instant petition.

Aceitun claims the district court abused its discretion by denying his petition for the following reasons. The district court had jurisdiction to grant his petition because it “involved a fundamental error that indisputably would have prevented the district court from rendering [the] judgment in the first place.” The Nevada Supreme Court’s conclusion that NRS 207.260 was unconstitutional was a subsequent development that constituted a factual issue for purposes of the coram nobis remedy. And the

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error in this case was a fundamental and egregious error that would have prevented the entry of the judgment of conviction if it had been known to the district court at the time.

We review a district court's denial of a petition for a writ of coram nobis for abuse of discretion. *Trujillo v. State*, 129 Nev. 706, 718-19, 310 P.3d 594, 602 (2013). The writ of coram nobis is limited in scope "to errors involving facts that were not known to the court, were not withheld by the defendant, and would have prevented entry of the judgment." *Id.* at 717, 310 P.3d at 601. Here, Aceitun's claims fell outside the narrow scope of claims permissible in a petition for a writ of coram nobis because they involved a legal error and not a factual error. See *United States v. Helmy*, 951 F.2d 988, 993 (9th Cir. 1991) ("Whether a statute or regulation is unconstitutionally vague is a question of law."). Accordingly, we conclude the district court did not abuse its discretion by denying Aceitun's petition, and we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

¹To the extent that Aceitun asks this court to overrule *Trujillo v. State*, revisit the availability of the writ of coram nobis in cases involving fundamental errors that affect the regularity of a judgment of conviction, or provide further guidance as to what constitutes a factual error for purposes of the writ, we note that the Nevada Supreme Court's decisions are binding on this court, and we decline to do so.

cc: Chief Judge, Eighth Judicial District Court
Hon. David Barker, Senior Judge
Wooldridge Law
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk