

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GILBERT DEMETRIUS AGUILAR,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 80973-COA

FILED

DEC 11 2020

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

ORDER OF AFFIRMANCE

Gilbert Demetrius Aguilar appeals from a district court order denying his motion to correct an illegal sentence. Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

In his motion, Aguilar claimed the district court lacked subject matter jurisdiction to impose his sentence because Nevada falls under the Treaty of Guadalupe C. Hidalgo and the Nevada Revised Statutes were not properly enacted. He also claimed faithful performance bonds were not filed in the county clerk's office, his strawman CUSIP bond was used illegally, and he was restrained in violation of his right to due process.

NRS 176.555 states a district "court may correct an illegal sentence at any time." A motion to correct an illegal sentence, however, may only challenge 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). "A motion to correct an illegal sentence presupposes a valid conviction and may not, therefore, be used to challenge alleged errors in proceedings that occur prior to the imposition of sentence." *Id.* (internal quotation marks omitted).

Aguilar's claims fell outside the narrow scope of claims permissible in a motion to correct an illegal sentence because they did not implicate the jurisdiction of the district court, *see* Nev. Const. art 6, § 6(1); NRS 171.010; *United States v. Cotton*, 535 U.S. 625, 630 (2002) (“[The term jurisdiction means . . . the court’s statutory or constitutional *power* to adjudicate the case.” (internal quotation marks omitted)), and his sentence was facially legal, *see* NRS 193.165(1) (1995); NRS 200.030(4)(b)(1); NRS 207.010(1)(a). Accordingly, the district court did not err by denying his motion,¹ and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Kathleen E. Delaney, District Judge
Gilbert Demetrius Aguilar
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹Although the district court erred by applying the successive and time bars set forth in NRS chapter 34 to Aguilar’s motion to correct an illegal sentence, *see Edwards*, 112 Nev. at 707, 918 P.2d at 323-34, we conclude the district court reached the right result by denying his motion, *see Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970).