

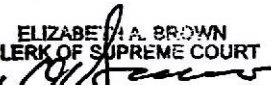
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JUAN JOSE MEDINA-VEGA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 81126-COA

FILED

JAN 08 2021

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER REVERSING ORDER, VACATING SENTENCE, AND  
REMANDING*

Juan Jose Medina-Vega appeals from a district court order denying a motion to correct an illegal sentence and vacate judgment filed on March 23, 2020. Second Judicial District Court, Washoe County; Egan K. Walker, Judge.

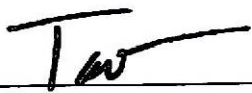
Medina-Vega claims the district court abused its discretion by denying his motion to correct an illegal sentence because his 6- to 15-year sentence for burglary exceeds the sentence authorized by the statutory provisions cited in the judgment of conviction.

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).

The judgment of conviction stated that Medina-Vega was guilty of sexually motivated burglary with the use of a deadly weapon, it imposed a maximum sentence of 15 years for the burglary count, and it listed penal statutes that do not support the imposed sentence. Consequently, we conclude the sentence is facially illegal and the district court erred by denying Medina-Vega's motion to correct an illegal sentence. *See* 2005 Nev. Stat., ch. 126, § 1, at 416 (former NRS 205.060(2)) (prescribing a maximum sentence for burglary of 10 years); *Funderburk v. State*, 125 Nev. 260, 263-64, 212 P.3d 337, 339 (2009) (explaining that burglary sentences cannot be enhanced by NRS 193.165). Accordingly, we

ORDER the district court order REVERSED, VACATE the burglary sentence, AND REMAND this matter to the district court for a new sentencing hearing.

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

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

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

cc: Hon. Egan K. Walker, District Judge  
Juan Jose Medina-Vega  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk