

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

EDDIE SOWELL SMITH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 83449-COA

FILED

DEC 29 2021

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

ORDER OF AFFIRMANCE

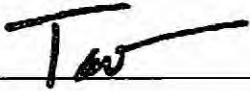
Eddie Sowell Smith appeals from an order of the district court denying a motion to modify or correct an illegal sentence filed on July 14, 2021. Eighth Judicial District Court, Clark County; Tara D. Clark Newberry, Judge.

In his motion, Smith claimed the district court lacked subject matter jurisdiction over his case because the amended information contained allegations that were originally charged as misdemeanors in the justice court complaint. “[A] motion to modify a sentence is limited in scope to sentences based on mistaken assumptions about a defendant’s criminal record which work to the defendant’s extreme detriment.” *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). A motion to correct an illegal sentence 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. *Id.* It “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.* (quotation marks omitted).

Without considering the merits of Smith's claims, we conclude they fall outside the narrow scope of claims permissible in a motion to modify or correct an illegal sentence. He did not allege that his sentences were based on any mistaken assumptions about his criminal record or that they were in excess of the statutory maximum. And his claims did not implicate the jurisdiction of the court. See Nev. Const. art. 6, § 6(1); NRS 171.010; *Landreth v. Malik*, 127 Nev. 175, 183, 251 P.3d 163, 168 (2011) ("Subject matter jurisdiction is the court's authority to render a judgment in a particular category of case." (internal quotation marks omitted)). Rather, his claims challenged alleged errors in proceedings that occurred prior to the imposition of his sentence. Therefore, we conclude the district court did not err by denying Smith's motion, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Tara D. Clark Newberry, District Judge
Eddie Sowell Smith
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk