

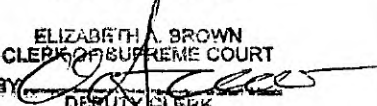
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GENARO RICHARD PERRY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 84175-COA

FILED

JUL 27 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Genaro Richard Perry appeals from an order of the district court denying a motion to modify or correct an illegal sentence filed on November 29, 2021. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

Perry argues the district court erred by denying his claim that his sentence is illegal and should be modified because the trial court erred by entering two amended judgments of conviction striking language that pronounced his sentence as an aggregated total. He also argues his sentence was illegal because he was not present when the district court struck the language which he claims constituted a resentencing.

A court may correct a clerical mistake in a judgment of conviction at any time. *See* NRS 176.565. If a defendant's crimes were committed on or after July 1, 2014, the district court is required to pronounce an aggregate term if consecutive sentences are imposed. NRS 176.035(1).

Perry committed his crimes in May 2014. Therefore, the pronouncement of the sentence in aggregate terms was extraneous information, and the district court did not err by striking it from the

judgment of conviction. Because the correction was clerical in nature, Perry was not required to be present to fix the error. See NRS 176.565 (providing that clerical errors in judgments may be corrected “after such notice, if any, as the court orders” (emphasis added)); see also *United States v. Saenz*, 429 F. Supp. 2d 1109, 1114 (N.D. Iowa 2006) (indicating that a defendant’s presence is not required under the Due Process Clause or the applicable federal rule of criminal procedure for correction of a clerical error in a sentence); *Jones v. State*, 672 A.2d 554, 555 (Del. 1996) (explaining that the right to be present at the imposition of a sentence does not apply when a sentence is corrected to fix a clerical error). Thus, Perry failed to demonstrate that his sentence was facially illegal or that the district court lacked jurisdiction to amend the judgment. See *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Therefore, we conclude the district court did not err by denying Perry’s motion, and we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

¹To the extent Perry argued that his sentence should be modified, he failed to demonstrate the district court relied on mistaken assumptions regarding his criminal record that worked to his extreme detriment. See *id.*

cc: Chief Judge, Eighth Judicial District Court
Eighth Judicial District Court, Department 17
Genaro Richard Perry
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk