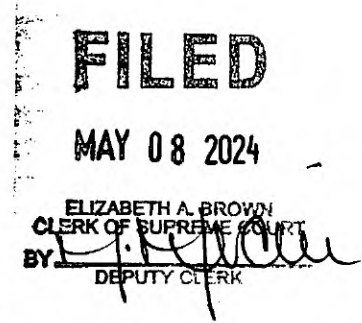


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GREGORY LEE WOLF,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 86825-COA



ORDER OF AFFIRMANCE

Gregory Lee Wolf appeals from a district court order denying a motion to modify or correct an illegal sentence filed on March 7, 2023. Eighth Judicial District Court, Clark County; Danielle K. Pieper, Judge.

Wolf argues the district court erred by denying his motion to modify or correct an illegal sentence. “[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.* “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 district court may summarily deny a motion to modify or correct an illegal sentence if the motion raises issues that fall outside of

the very narrow scope of issues permissible in such motions. *Id.* at 708 n.2, 918 P.2d at 325 n.2.

First, Wolf argues the amended indictment contained incorrect information regarding “dates” and the ages of the victims such that it failed to comply with NRS 173.075 and to confer jurisdiction upon the district court. Wolf’s claim does not implicate the jurisdiction of the courts. *See* Nev. Const. art. 6, § 6; NRS 171.010; *United States v. Cotton*, 535 U.S. 625, 630 (2002) (“[T]he term jurisdiction means . . . the courts’ statutory or constitutional *power* to adjudicate the case.” (internal quotation marks omitted)). In addition, this claim does not assert that Wolf’s sentence was based on mistaken assumptions about his criminal record. Therefore, without considering the merits of this claim, we conclude that it falls outside the narrow scope of claims permissible in a motion to modify or correct an illegal sentence.

Second, Wolf appears to argue the sentencing court violated his due process rights when it considered incorrect information in the amended indictment regarding “dates” and the ages of the victims. This claim does not allege that the sentence was based on mistaken assumptions about Wolf’s criminal record which work to his extreme detriment, the district court was without jurisdiction to impose the sentence, or the sentence imposed was in excess of the statutory maximum. Therefore, without considering the merits of this claim, we conclude that it falls outside the

narrow scope of claims permissible in a motion to modify or correct an illegal sentence.¹

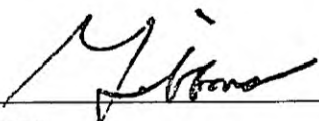
Third, Wolf appears to argue the sentencing court violated his due process rights when it considered incorrect information in his presentence investigation report (PSI) regarding his prior convictions. Wolf also contends the district court failed to address the merits of his claims. At the conclusion of the hearing on Wolf's motion, the district court found that Wolf failed to show the sentencing court relied on a materially false assumption of fact that worked to his detriment. The district court's finding is supported by the record.

Wolf asserts that the PSI includes a "false prior conviction for sexual assault" without further explanation. The PSI does not indicate that Wolf was convicted of sexual assault; rather, it indicates he was charged with sexual assault but was ultimately convicted of "[l]ewdness charges" and that he received "1 year informal probation." Moreover, at sentencing, both the State's argument and the district court's stated reasons for imposing Wolf's sentence concerned the seriousness of the instant offenses,

¹To the extent Wolf suggests a district court may modify a sentence that is based on *any* materially untrue assumption or mistake of fact, regardless of whether it relates to the defendant's criminal record, the Nevada Supreme Court has rejected this proposition. See *Edwards v. State*, 112 Nev. 704, 707, 918 P.2d 321, 324 (1996) (stating "the district court has inherent authority to correct, vacate or modify a sentence that is based on a materially untrue assumption or mistake of fact that has worked to the extreme detriment of the defendant, but only if the mistaken sentence is the result of the sentencing judge's misapprehension of a *defendant's criminal record*" (internal quotation marks omitted)).

and neither referenced Wolf's prior criminal history. Therefore, Wolf fails to demonstrate his sentence was based on mistaken assumptions about his criminal record that worked to his extreme detriment or that the district court did not address his claims on the merits.² Accordingly, we conclude the district court did not err in denying Wolf's motion, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Danielle K. Pieper, District Judge
Law Office of Gabriel L. Grasso, P.C.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²To the extent Wolf contends the district court failed to address other claims raised in his motion, Wolf failed to include his motion in the appendix on appeal, and we presume this document supports the district court's decision. *See Thomas v. State*, 120 Nev. 37, 43 n.4, 83 P.3d 818, 822 n.4 (2004); *see also Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2007).