

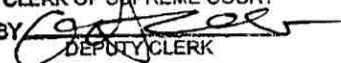
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DONALD NORMAN BROWN, III,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 86733-COA

FILED

JUN 13 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Donald Norman Brown, III, appeals from a district court order denying a motion to correct an illegal sentence filed on April 5, 2023. Eighth Judicial District Court, Clark County; Jasmin D. Lilly-Spells, Judge.

Brown contends the district court knowingly and intentionally mischaracterized his claims as not being properly raised in a motion to correct an illegal sentence. 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. *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). And such a motion “presupposes a valid conviction.” *Id.* (quotation marks omitted).

In his motion, Brown claimed the district court lacked jurisdiction to impose his sentence because the Nevada Revised Statutes in general, and NRS 171.010, NRS 220.120, and NRS 220.170 in particular, are invalid and/or unconstitutional. Although Brown purported to challenge the district court’s jurisdiction only insofar as it pertained to his sentencing, his arguments implicated the validity of Nevada’s entire statutory scheme and, thus, the validity of his conviction. Therefore,

Brown's claims were outside the scope of claims permissible in a motion to correct an illegal sentence, and we conclude the district court did not mischaracterize Brown's claims in denying his motion.

Brown also contends the district court did not give him adequate time to serve his reply to the State's opposition. The State served its opposition on April 11, 2023; thus, Brown had until April 18, 2023, to serve and file his reply. *See* DCR 13(4) ("The moving party may serve and file reply points and authorities within 7 days after service of the answering points and authorities."). The district court issued a minute order denying Brown's motion on April 26, 2023. Therefore, Brown fails to demonstrate that the district court did not give him adequate time to serve his reply, and we conclude Brown is not entitled to relief on this claim.

Brown also contends the district court intentionally denied his motion for enlargement of time to file his reply to the State's opposition so that it did not need to consider his reply. Brown's motion for enlargement of time was filed on April 26, 2023, the same day the district court issued its minute order denying Brown's motion to correct an illegal sentence. Thereafter, the district court denied the motion for enlargement of time as moot because it had already ruled on the motion to correct an illegal sentence. Brown fails to demonstrate the district court erred in denying his motion for enlargement of time, and we conclude Brown is not entitled to relief on this claim.

Brown also contends that the district court colluded with the State and showed a hostile and biased attitude toward him. Brown has not demonstrated that the district court colluded with the State. Further, he has not demonstrated that the district court was biased against him. The record does not indicate that the district court's decision was based on

knowledge acquired outside of the proceedings, and the decision does not otherwise reflect “a deep-seated favoritism or antagonism that would make fair judgment impossible.” *Canarelli v. Eighth Jud. Dist. Ct.*, 138 Nev. 104, 107, 506 P.3d 334, 337 (2022) (quotation marks omitted); *see In re Petition to Recall Dunleavy*, 104 Nev. 784, 789, 769 P.2d 1271, 1275 (1988) (providing that rulings made during official judicial proceedings generally “do not establish legally cognizable grounds for disqualification”); *see also Rivero v. Rivero*, 125 Nev. 410, 439, 216 P.3d 213, 233 (2009) (stating that the burden is on the party asserting bias to establish sufficient factual grounds for disqualification), *overruled on other grounds by Romano v. Romano*, 138 Nev. 1, 6, 501 P.3d 980, 984 (2022). Therefore, we conclude Brown is not entitled to relief on these claims.

For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Jasmin D. Lilly-Spells, District Judge
Donald Norman Brown, III
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk