

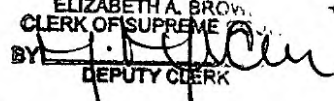
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ARMANDO DELAROSA, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 88369-COA

FILED

JAN 13 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Armando Delarosa, Jr., appeals from a district court order denying a motion to correct an illegal sentence filed on December 20, 2023. Eighth Judicial District Court, Clark County; Ronald J. Israel, Judge.

In his motion, Delarosa sought to vacate his sentence because he alleged the sentencing court lacked jurisdiction to impose it. Specifically, he claimed that NRS 171.010 lacks any statutory source within the Statutes of Nevada because the statutory source was repealed by Senate Bill 2 in 1957. 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).

Although Delarosa purports to challenge the district court’s jurisdiction only insofar as it pertains to his sentencing, his arguments implicate the validity of Nevada’s entire statutory scheme and, thus, the validity of his conviction. Therefore, Delarosa’s claims are outside the scope of claims allowed in a motion to correct an illegal sentence, and without

considering the merits of his claims, we conclude the district court did not err by denying Delarosa's motion.¹

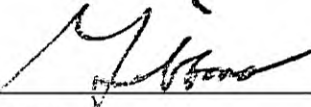
On appeal, Delarosa contends that the district court had a hostile and biased attitude toward him and violated Canons 1 and 2 of the Nevada Code of Judicial Conduct when it did not allow him to speak at the hearing on his motion. Delarosa has not demonstrated that the district court was biased against him or violated the judicial canons. Specifically, Delarosa has not demonstrated 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) (internal quotation marks omitted) (explaining that, unless an alleged bias has its origins in an extrajudicial source, disqualification is unwarranted absent a showing that the judge formed an opinion based on facts introduced during official judicial proceedings and which reflects deep-seated favoritism or antagonism that would render fair judgment impossible); 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*,

¹The district court appeared to deny the motion as procedurally barred and waived pursuant to NRS 34.810, the procedural bars that apply to a postconviction petition for a writ of habeas corpus. However, a motion to correct an illegal sentence is not subject to the procedural requirements of postconviction petitions, see *id.* at 707, 918 P.2d at 323-24, and the district court erred by considering them. Nevertheless, for reason stated above, we affirm the denial of the motion. See *Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 33, 341 (1970) (holding a correct result will not be reversed simply because it is based on the wrong reason).

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), *abrogated in part on other grounds by Killebrew v. State ex rel. Donohue*, 139 Nev., Adv. Op. 43, 535 P.3d 1167 (2023). Further, Delarosa was represented by counsel at the hearing, who was permitted to present arguments on his behalf, and therefore, Delarosa fails to establish that the district court was biased against him by limiting his ability to speak at the hearing. Therefore, we conclude Delarosa is not entitled to relief on this claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Ronald J. Israel, District Judge
Armando Delarosa, Jr.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk