

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOSEPH WAYNE JONES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 90039-COA ✓

FILED

NOV 12 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT

BY

No. 90099-COA

JOSEPH WAYNE JONES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

JOSEPH WAYNE JONES,
Appellant,
vs.
DWIGHT NEVEN, IN HIS OFFICIAL
CAPACITY AS THE WARDEN OF
HIGH DESERT STATE PRISON;
JAMES COX, IN HIS OFFICIAL
CAPACITY AS DIRECTOR OF THE
NEVADA DEPARTMENT OF
CORRECTIONS; AND THE STATE OF
NEVADA,
Respondents.

No. 90100-COA

ORDER OF AFFIRMANCE AND DISMISSING APPEAL IN PART

Joseph Wayne Jones appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on August 26, 2024 (Docket No. 90039-COA) and a February 27, 2025, district court order denying numerous motions and petitions (Docket Nos. 90099-COA & 90100-

COA).¹ Eighth Judicial District Court, Clark County; Christy L. Craig, Judge.

On appeal, Jones appears to argue the district court erred by denying his postconviction habeas petition, his motion to modify or correct an illegal sentence filed on February 2, 2023, his petition for a writ of mandamus filed on February 27, 2024, and his motion for “back time credits” filed on August 1, 2024. Regarding his postconviction habeas petition, Jones filed the petition more than six years after the order dismissing his direct appeal was filed on February 1, 2018.² Thus, Jones’ petition was untimely filed. *See* NRS 34.726(1). Moreover, Jones’ petition was successive because he had previously filed a postconviction petition for a writ of habeas corpus that was decided on the merits, and it constituted an abuse of the writ as he raised a claim new and different from those raised in his previous petitions.³ *See* NRS 34.810(3). Jones’ petition was therefore

¹Docket Nos. 90099 and 90100 were previously consolidated. We elect to address all three appeals in this order. *See* NRAP 3(b)(2).

²Jones filed a direct appeal but withdrew it voluntarily. *Jones v. State*, No. 74108, 2018 WL 679550 (Nev. Feb. 1, 2018) (Order Dismissing Appeal). The supreme court noted in its order dismissing the appeal that, because no remittitur issued from the withdrawal of Jones’ direct appeal, the one-year period for filing a timely postconviction habeas petition under NRS 34.726(1) was to commence from the date of that order.

³*See Jones v. State*, No. 78668-COA, 2020 WL 3051519 (Nev. Ct. App. June 5, 2020) (Order of Affirmance). Jones filed a second postconviction habeas petition on December 29, 2022, which the district court denied; this court dismissed Jones’ appeal on August 1, 2024, for lack of jurisdiction. *See Jones v. State*, No. 87398-COA, 2024 WL 3632582 (Nev. Ct. App. Aug. 1, 2024) (Order Dismissing Appeal). Jones filed a third postconviction habeas petition on November 7, 2023, but did not appeal from the denial of that petition.

procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(4). Jones, however, did not argue good cause to overcome the procedural bars. See *Chappell v. State*, 137 Nev. 780, 787, 501 P.3d 935, 949 (2021) (providing “a petitioner’s explanation of good cause and prejudice for each procedurally barred claim must be made on the face of the petition”). Accordingly, we conclude the district court did not err by denying the petition.⁴

In his motion to modify or correct an illegal sentence, Jones argued his sentence was illegal because his plea deal with the State was not honored. To support his argument, Jones discussed the plea deal initially offered by the State, the ineffective assistance of his counsel, and the mental health issues affecting him. 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). “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). “[A] motion to modify a sentence is limited in scope to sentences based on mistaken assumptions about a

⁴The district court did not apply the mandatory procedural bars below. We conclude this was error. See *State v. Eighth Jud. Dist. Ct. (Riker)*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005) (“Application of the statutory procedural default rules to post-conviction habeas petitions is mandatory.”). Nevertheless, we conclude that the district court reached the correct result. See *Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) (holding a correct result will not be reversed simply because it is based on the wrong reason).

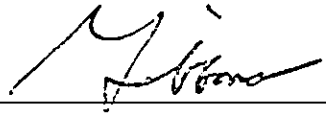
defendant's criminal record which work to the defendant's extreme detriment." *Id.* Without considering the merits of Jones' claims, we conclude they fall outside the narrow scope of claims permissible in a motion to modify or correct an illegal sentence. Therefore, we conclude the district court did not err by denying this motion.

Jones also filed a petition for a writ of mandamus, in which he argued his sentences exceeded the statutory limits for both offenses. The district court denied the petition, noting that a petition for a writ of mandamus was "an improper procedural vehicle for [Jones'] claims." A writ of mandamus may be issued "to compel the performance of an act which the law especially enjoins as a duty resulting from an office, trust or station," NRS 34.160, and shall be issued only in "cases where there is not a plain, speedy and adequate remedy in the ordinary course of law," NRS 34.170. For Jones' contention that his sentences exceeded statutory limits, Jones had a plain, speedy, and adequate remedy in the ordinary course of law by way of an appeal from his judgment of conviction and sentence or a motion to correct an illegal sentence. We therefore conclude the district court did not err in denying the petition for a writ of mandamus.

Finally, Jones filed a motion for "back time credit," in which he sought additional presentence credit for time served. Because no statute or court rule permits an appeal from an order denying a motion for "back time credit," this court lacks jurisdiction to consider that portion of Jones' appeals in Docket Nos. 90099 and 90100, and we order them dismissed. *See Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990) ("We have consistently held that the right to appeal is statutory; where no statutory authority to appeal is granted, no right to appeal exists."). For the foregoing reasons, we

ORDER the judgments of the district court AFFIRMED and the appeals in Docket Nos. 90099 and 90100 DISMISSED IN PART.⁵


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Christy L. Craig, District Judge
Joseph Wayne Jones
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

⁵To the extent Jones raised other arguments not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given the disposition of this appeal.