

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RONALD LEE GIBSON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 68240

**FILED**

NOV 19 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a district court order denying a motion to correct an illegal sentence.<sup>1</sup> Eighth Judicial District Court, Clark County; Michael Villani, Judge.

In his motion filed on May 5, 2015, appellant Ronald Gibson claimed the written guilty “plea agreement does not reflect that he attempted to commit a category A felony,” the guilty plea agreement and the amended information do not “different[iate] between attempts under NRS 193.330(1)(a)(2) and NRS 193.330(1)(a)(1),” and his sentence is illegal because it “exceeds the statutory limits of a category B felony.”

A motion to correct an illegal sentence “presupposes a valid conviction” and 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) (quoting *Allen v. United States*, 495 A.2d 1145, 1149 (D.C. 1985)).


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<sup>1</sup>This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).

Gibson has not claimed the district court acted without jurisdiction, and he has not demonstrated the sentence imposed was in excess of the statutory maximum. The amended judgment of conviction plainly demonstrates Gibson was convicted of attempted sexual assault of a minor under 14 years of age. Sexual assault of a minor under 14 years of age is a category A felony. NRS 200.366(3). An attempt to commit a category A felony is punished as a category B felony and is subject to a maximum prison term of 20 years. NRS 193.330(1)(a)(1). Because Gibson's 8- to 20-year prison sentence does not exceed the statutory maximum sentence, the district court not err in denying his motion, and we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Michael Villani, District Judge  
Ronald Lee Gibson  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk