


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANDREW ALFRED MARTINEZ, III,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74263

FILED

SEP 11 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Andrew Alfred Martinez, III, appeals from an order of the district court denying a July 10, 2017, motion to correct judgment of conviction.¹ Eighth Judicial District Court, Clark County; Mark B. Bailus, Judge.

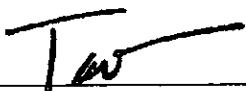
In his motion, Martinez claimed there was a clerical error in the judgment of conviction. He claimed he agreed to be sentenced to 1 year to 6 years in prison on each of the counts but the judgment of conviction erroneously states he was sentenced to serve 28 months to 72 months in prison for each count. This claim fell outside the scope of claims that may be raised in a motion to modify or correct an illegal sentence. *See Edwards*, 112 Nev. at 708, 918 P.2d at 324. Moreover, Martinez failed to demonstrate a clerical error in his judgment of conviction. Martinez did not agree to

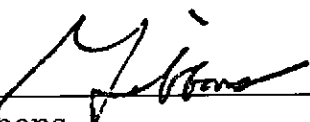
¹This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).

We have jurisdiction to consider this appeal only to the extent Martinez' motion was construed as a motion to modify or correct an illegal sentence. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

sentences of 1 year to 6 years in prison; instead, the State was free to argue and the district court was free to impose a sentence within the sentencing range of 1 year to 6 years in prison for each count. The district court sentenced Martinez to serve two consecutive terms of 28 to 72 months in prison, which was within the parameters provided by the statutes and in the guilty plea agreement. See NRS 200.471(2)(b); NRS 207.190(2)(a). Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Mark B. Bailus, District Judge
Andrew Alfred Martinez, III
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²The Honorable Abbi Silver did not participate in the decision in this matter.