

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SALVADORE GARCIA, A/K/A
SALVADOR GARCIA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 78158-COA

FILED

AUG 21 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Salvadore Garcia appeals from a district court order denying his motions to “correct and/or modify actual, factual and legally illegal sentence” that were filed on September 21, 2018, October 22, 2018, and December 31, 2018. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

Garcia argues the district court erred by denying his motions. “[A] motion to modify a sentence is limited in scope to sentences based on mistaken assumptions about a defendant’s criminal record which work to the defendant’s extreme detriment.” *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). A motion to correct an illegal sentence may address only 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. *Id.* “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.* (quoting *Allen v. United States*, 495 A.2d 1145, 1149 (D.C. 1985). A motion to modify or correct a sentence that raises issues outside

the very narrow scope of issues permissible may be summarily denied. *Id.* at 708 n.2, 918 P.2d at 325 n.2.

In his motions below, Garcia claimed his sentencing judge committed multiple violations at his sentencing hearing and his double jeopardy rights were violated when he was charged with, and convicted of, two separate statutory crimes that arose out of a single action. Garcia failed to demonstrate the sentencing court relied on mistaken assumptions regarding his criminal record that worked to his extreme detriment. And he failed to demonstrate that his sentence was facially illegal or the sentencing court lacked jurisdiction. Therefore, we conclude the district court did not err by denying Garcia's motions to correct and/or modify his sentence, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Michael Villani, District Judge
Salvadore Garcia
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk