


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL JON RIOS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 78991-COA

FILED

FEB 19 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Michael Jon Rios appeals from an order of the district court denying a motion to correct an illegal sentence filed on March 21, 2019. Tenth Judicial District Court, Churchill County; Thomas L. Stockard, Judge.

Rios was convicted, pursuant to a guilty plea, of one count of violation of a condition of lifetime supervision. He was placed on probation, and his probation was later revoked. In his motion below, Rios pointed out that the year following his conviction, the Nevada Supreme Court held that lifetime supervision conditions cannot vary from what are listed in NRS 213.1243. *See McNeill v. State*, 132 Nev. 551, 375 P.3d 1022 (2016). The violation to which Rios pleaded (consuming alcohol) was not one of the conditions listed in the statute. From this, Rios argued in his motion that the district court lacked jurisdiction to convict him of violating his lifetime supervision, to impose probation, or to then revoke probation.

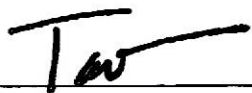
Rios' claim challenged the validity of his judgment of conviction and thus could only be raised in a postconviction petition for a writ of habeas

corpus. See NRS 34.724(2)(b).¹ Rios did not allege his sentence was facially illegal, and his claims did not implicate the jurisdiction of the courts. See Nev. Const. art. 6, § 6; NRS 171.010. We therefore conclude the district court did not err by denying Rios' motion. See *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

In addition to denying Rios' motion on the basis that his sentence was not illegal, the district court also construed Rios' motion as a postconviction petition for a writ of habeas corpus. The district court then determined it was procedurally barred and denied it. This was error. See *Harris v. State*, 130 Nev. 435, 448-49, 329 P.3d 619, 628 (2014) (requiring district courts to allow petitioners to correct procedural deficiencies when construing motions as postconviction habeas petitions). This error, however, does not warrant relief because, as stated above, the district court properly denied Rios' motion on other grounds. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Thomas L. Stockard, District Judge
Michael Jon Rios
Attorney General/Carson City
Churchill County District Attorney/Fallon
Churchill County Clerk

¹We express no opinion as to whether Rios could meet the procedural requirements of NRS chapter 34.