

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GERALD THEODORE GLENN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 79407-COA

**FILED**

**MAR 12 2020**

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

**ORDER OF AFFIRMANCE**

Gerald Theodore Glenn appeals from an order of the district court denying the motion to modify or correct an illegal sentence filed on May 11, 2018. Eighth Judicial District Court, Clark County; Eric Johnson, Judge.

Glenn argues the district erred by denying his claim that he should have only been sentenced to one to six years in prison for each count because he did not have any prior driving under the influence (DUI) convictions. However, Glenn was convicted pursuant to NRS 484C.430(1), which mandates a sentence of not less than two years and not more than 20 years regardless of a defendant's prior DUI history. Therefore, Glenn failed to demonstrate the district court relied on mistaken assumptions regarding his criminal record that worked to his extreme detriment. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Further, Glenn failed to demonstrate that his sentence was facially illegal or the district court lacked jurisdiction. *See id.* Therefore, we conclude the district court did not err by denying this claim.


Glenn also argues the district court erred by denying his claim that his sentence should be modified or is illegal because he should have

only been convicted of one charge. This claim fell outside the narrow scope of claims permissible in a motion to modify or correct an illegal sentence. *See id.* Therefore, without considering the merits of this claim, we conclude the district court did not err by denying this claim.

Finally, Glenn argues the fine imposed in this case was excessive. Glenn did not raise this claim below, and we decline to consider it for the first time on appeal. *See McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Eric Johnson, District Judge  
Gerald Theodore Glenn  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk