

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOEY KADMIRI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 80943-COA

**FILED**

DEC 11 2020

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

*ORDER OF AFFIRMANCE*

Joey Kadmiri appeals from a district court order denying a motion to modify a sentence filed on August 9, 2019. Eighth Judicial District Court, Clark County; Eric Johnson, Judge.

Kadmiri claims the district court should have modified his sentence “to avoid ongoing due process violations stemming from his agreement to plead guilty to a fictitious [charge].”<sup>1</sup>

As a general rule, the district court lacks jurisdiction to modify a sentence after the defendant has begun serving it. *Staley v. State*, 106 Nev. 75, 79, 787 P.2d 396, 398 (1990), *overruled on other grounds by Hodges v. State*, 119 Nev. 479, 484, 78 P.3d 67, 70 (2003). There are three exceptions to this rule. First, for reasons of due process, a district court may “correct, vacate or modify a sentence that is based on a materially untrue

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<sup>1</sup>Kadmiri pleaded guilty to battery with the use of a deadly weapon resulting in substantial bodily harm constituting domestic violence. In his sentencing memorandum, he explained, “[T]he guilty plea in the instant case is a fictitious plea because it has never been documented or established that [the victim] sustained any type of ‘substantial bodily harm’ resulting from this incident. The fictitious plea was entered into for the purposes of the sentencing range(s) negotiated by the parties.”

assumption or mistake of fact that has worked to the extreme detriment of the defendant, but only if the mistaken sentence is the result of the sentencing judge's misapprehension of a defendant's criminal record." *Edwards v. State*, 112 Nev. 704, 707, 918 P.2d 321, 324 (1996) (internal quotation marks and emphasis omitted). Second, a district court has the inherent authority to correct a facially illegal sentence. *Id.* at 707-08, 918 P.2d at 324; *see also* NRS 176.555. And, third, the district court may correct clerical mistakes in judgments at any time. NRS 176.565.

We conclude the district court did not err by denying Kadmiri's motion because Kadmiri failed to demonstrate that the district court relied upon mistaken assumptions about his criminal record, his sentence is facially illegal, or the judgment of conviction contains a clerical error. Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

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

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

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<sup>2</sup>We decline Kadmiri's request for "a criterion for the use of [fictitious] pleas, and a venue through modification for all those who may seek remedy accordingly."

The Honorable Jerome T. Tao did not participate in the decision in this matter.

cc: Hon. Eric Johnson, District Judge  
Joey Kadmiri  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk