

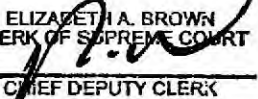
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL BRYANT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 81610-COA

FILED

MAR 12 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Michael Bryant appeals from a district court order denying his motion to correct an illegal sentence filed on May 22, 2020. Eighth Judicial District Court, Clark County; Eric Johnson, Judge.

In his motion, Bryant claimed the district court lacked subject matter jurisdiction to impose his sentence because the land does not belong to the State but rather to indigenous tribes in accordance with the Treaty of Guadalupe Hidalgo. Bryant likewise claimed that the Nevada Revised Statutes were not properly enacted and the laws of Nevada were repealed. Finally, Bryant alleged that the district attorney and the justice of the peace were without authority to act in his case because they lacked fidelity bonds.

Bryant failed to demonstrate that his sentence was facially illegal. He did not allege his sentence was at variance with the controlling statute or that the court imposed a maximum sentence in excess of that allowed by the statute. Moreover, his claims did not implicate the district

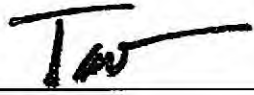
court's subject matter jurisdiction. See Nev. Const. art. 6, § 6(1); NRS 171.010; *Landreth v. Malik*, 127 Nev. 175, 183, 251 P.3d 163, 168 (2011) ("Subject matter jurisdiction is the court's authority to render a judgment in a particular category of case." (internal quotation marks omitted)). Therefore, we conclude the district court did not err by denying Bryant's motion. See *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

Bryant claims on appeal that the district court erred by conducting a hearing on his motion outside of his presence. A criminal defendant does not have an unlimited right to be present at every proceeding. See *Gallego v. State*, 117 Nev. 348, 367-68, 23 P.3d 227, 240 (2001), *abrogated on other grounds by Nunnery v. State*, 127 Nev. 749, 776 n.12, 263 P.3d 235, 253 n.12 (2011). A "defendant must show that he was prejudiced by the absence." *Kirksey v. State*, 112 Nev. 980, 1000, 923 P.2d 1102, 1115 (1996). The record indicates the hearing at issue was not an evidentiary hearing, no testimony was presented, and the district court merely discussed the reasons why Bryant was not entitled to relief. Cf. *Gebers v. State*, 118 Nev. 500, 504, 50 P.3d 1092, 1094-95 (2002) (concluding petitioner's statutory rights were violated when she was not present at a hearing where testimony and evidence were presented). Bryant does not demonstrate he was prejudiced by his absence from the relevant hearing. Accordingly, we conclude the district court did not err in this regard.

Finally, Bryant claims his sentence constitutes cruel and unusual punishment. This claim was not raised in Bryant's motion 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
Michael Bryant
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk