

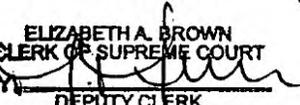
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SAMMY EARL COLLINS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 84694-COA

**FILED**

FEB 14 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER AFFIRMING IN PART, REVERSING IN PART AND  
REMANDING*

Sammy Earl Collins appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on December 15, 2021. Eighth Judicial District Court, Clark County; Christy L. Craig, Judge.

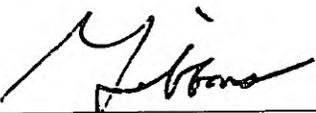
Collins first claimed the Nevada Department of Corrections (NDOC) erroneously structured his sentences in contradiction of NRS 176.035 and NRS 213.1213. The district court denied the petition as moot after finding that Collins previously sought corrections to his time credit calculations and sentence structures and that NDOC properly applied all credits to which Collins was entitled. However, Collins' instant petition did not challenge his time credit calculations, and the district court did not address Collins' claims regarding sentencing structure. Accordingly, we conclude the district court erred by denying Collins' petition as moot.

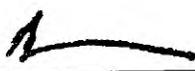
Moreover, the record lacks the necessary details about how and why NDOC structured Collins' sentences as it did. Thus, Collins' challenge to his sentence structure is not belied by the record and, if true, would entitle him to some relief. Therefore, we conclude the district court erred

by denying Collins' sentence structure claim without conducting an evidentiary hearing. *See Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). Accordingly, we reverse the district court's denial of this claim and remand for the district court to conduct an evidentiary hearing.

Collins also claimed that he was denied his right to counsel because an NDOC employee resentenced him without counsel present. NDOC's administration of an offender's sentence does not alter the sentence imposed in the judgment of conviction and thus does not constitute sentencing. Therefore, we conclude that Collins' claim that he was resentenced by NDOC is belied by the record and he is not entitled to relief based on this claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED IN PART AND REVERSED IN PART AND REMAND this matter to the district court for proceedings consistent with this order.

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

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

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Christy L. Craig, District Judge  
Sammy Earl Collins  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk