

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

HENRY ALTAMIRANO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 85708-COA

FILED

MAY 30 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER OF AFFIRMANCE

Henry Altamirano appeals from an order of the district court denying a motion to correct an illegal sentence filed on October 13, 2022. Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

In his motion and supporting memorandum, Altamirano claimed that the Statutes of Nevada were repealed and the Nevada Revised Statutes were not properly created by the Legislature. Altamirano also appeared to argue that his conviction was invalid because the Nevada Revised Statutes do not contain enacting clauses as required by the Nevada Constitution. Altamirano contended that the sentencing court had no authority or jurisdiction to convict him or impose his sentence because the Nevada Revised Statutes were not valid.

A motion to correct an illegal sentence may only challenge the facial legality of the sentence: either the district court was without jurisdiction to impose a sentence or the sentence was imposed in excess of the statutory maximum. *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). "A motion to correct an illegal sentence presupposes a valid conviction and may not, therefore, be used to challenge alleged errors in

proceedings that occur prior to the imposition of sentence.” *Id.* (internal quotation marks omitted).

Altamirano’s claim did not implicate the jurisdiction of the courts. *See Nev. Const. art. 6, § 6; United States v. Cotton*, 535 U.S. 625, 630 (2002) (“[T]he term jurisdiction means . . . the courts’ statutory or constitutional *power* to adjudicate the case.” (internal quotation marks omitted)); *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)). Moreover, Altamirano did not demonstrate that the Statutes of Nevada were repealed and no longer effective. We note the Statutes of Nevada contain the laws with the enacting clauses required by the constitution. The Nevada Revised Statutes simply reproduce those laws as classified, codified, and annotated by the Legislative Counsel. *See* NRS 220.110; NRS 220.120. Because Altamirano’s claims did not implicate the jurisdiction of the courts, he failed to demonstrate the sentencing court was without jurisdiction to convict him or impose a sentence.

In addition, the sentencing court imposed a term of life in prison with the possibility of parole after 10 years for the conviction of lewdness with a child under the age of 14 and a term of 96 to 240 months in prison for the conviction of attempted sexual assault of a minor under 14 years of age. And Altamirano’s consecutive sentences fell within the parameters of the relevant statutes. *See* NRS 176.035(1); NRS 193.153(1)(a)(1); 2015 Nev. Stat., ch. 399, § 8, at 2235-36 (NRS 200.366); NRS 201.230(2). Altamirano thus did not demonstrate that the sentences imposed were in excess of the statutory maximum. Accordingly, we conclude the district court did not err by denying the motion.

Altamirano also contends that the district court erred by permitting the State to untimely file its opposition to his motion, permitting his documents to be received before being file-stamped on a later date, and failing to ensure that hearings occurred in a timely manner. Altamirano also contends he is entitled to relief due to cumulative effects of these errors. Because we conclude that the district court properly denied Altamirano's motion to correct an illegal sentence, any errors concerning these issues were harmless. We therefore conclude Altamirano is not entitled to relief. *See* NRS 178.598 ("Any error, defect, irregularity or variance which does not affect substantial rights shall be disregarded."). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Kathleen E. Delaney, District Judge  
Henry Altamirano  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk