

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

NICHOLAS JAMES WILLING,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 86309-COA

FILED

SEP 18 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Nicholas James Willing appeals from an order of the district court denying a “motion to correct illegal sentence by fraudulent contract, charging document, judgement of conviction and plea deals” filed on February 2, 2023. Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.

In his motion, Willing claimed Senate Bill 182 (S.B. 182), which was enacted in 1951 and created a commission for revision and compilation of Nevada laws,¹ was unconstitutional because it allowed Nevada Supreme Court justices to sit on the commission. Willing further claimed that “all acts derived from S.B. 182,” such as charging documents, judgments of conviction, and plea deals, hold no authority because S.B. 182 is unconstitutional. Willing appears to have claimed that his judgment of conviction and plea agreement were defective and should be rescinded due to fraudulent inducement.

¹See 1951 Nev. Stat., ch. 304, §§ 1-17, at 470-72.

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).

Willing’s claims did not implicate the jurisdiction of the courts. *See* Nev. Const. art. 6, § 6(1); *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, Willing did not allege that his sentence exceeded the statutory maximum. To the extent Willing’s claims challenged the validity of his judgment of conviction, they were outside the scope of a motion to correct an illegal sentence. Therefore, we conclude the district court did not err by denying Willing’s motion.

On appeal, Willing argues that the district court (1) refused to let his lawyer interview a witness; (2) denied his request for an extension of time; and (3) denied his lawyer certain information. Willing did not raise these claims in his motion below; therefore, we decline to consider them for

the first time on appeal. *See McNelton v. State*, 115 Nev. 396, 415-16, 990 P.2d 1263, 1275-76 (1999). Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Robert W. Lane, District Judge
Nicholas James Willing
Attorney General/Carson City
Nye County District Attorney
Nye County Clerk

²We have reviewed all documents Willing has filed in this matter, and we conclude no relief based upon those submissions is warranted. To the extent Willing attempts to present claims or facts in those submissions which were not previously presented in the proceedings below, we decline to consider them in the first instance. *See id.*