IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CARLOS LUZANIA ESPINOZA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 86365-COA

ORDER OF AFFIRMANCE

Carlos Luzania Espinoza 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 under rescission" filed on March 7, 2023. Eighth Judicial District Court, Clark County; Bita Yeager, Judge.

In his motion, Espinoza 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. Espinoza 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. Espinoza appears to have claimed that his judgment of conviction and plea agreement were defective and should be rescinded due to fraudulent inducement.

A motion to correct an illegal sentence may only challenge the facial legality of the sentence: either the district court was without

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

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).

Espinoza'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)). And Espinoza did not allege that his sentence exceeded the statutory maximum. To the extent Espinoza'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 Espinoza's motion.

On appeal, Espinoza appears to argue that the district court has committed crimes and is guilty of treason. Espinoza 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).

Espinoza also appears to argue the district court was biased against him because it did not transport him to the hearing on his motion and it denied his motion without addressing the merits of his claims. Espinoza has not demonstrated that the district court's actions were based

on knowledge acquired outside of the proceedings, and the decision does not otherwise reflect "a deep-seated favoritism or antagonism that would make fair judgment impossible." *Canarelli v. Eighth Judicial Dist. Court*, 138 Nev. 104, 107, 506 P.3d 334, 337 (2022) (internal quotation marks omitted) (explaining that unless an alleged bias has its origins in an extrajudicial source, disqualification is unwarranted absent a showing that the judge formed an opinion based on facts introduced during official judicial proceedings and which reflects deep-seated favoritism or antagonism that would render fair judgment impossible); *see In re Petition to Recall Dunleavy*, 104 Nev. 784, 789, 769 P.2d 1271, 1275 (1988) (providing that rulings made during official judicial proceedings generally "do not establish legally cognizable grounds for disqualification"); *see also Rivero v. Rivero*, 125 Nev. 410, 439, 216 P.3d 213, 233 (2009) (stating that the burden is on the party asserting bias to establish sufficient factual grounds for disqualification), *overruled on other grounds by Romano v. Romano*, 138 Nev. 1, 6, 501 P.3d 980, 984 (2022). Therefore, Espinoza is not entitled to relief based on this claim.[2]

Espinoza also argues the district court failed to stop the State from filing an opposition and failed to "notify the proper authority when the finding and facts supported the claims in [his] pleading." Espinoza fails to demonstrate the district court erred by allowing the State to file an

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[2]We note that Espinoza fails to demonstrate he had a right to be present at the hearing. *See Gallego v. State*, 117 Nev. 348, 367, 23 P.3d 227, 240 (2001) (stating "a defendant does not have an unlimited right to be present at every proceeding"), *abrogated on other grounds by Nunnery v. State*, 127 Nev. 749, 776 n.12, 263 P.3d 235, 253 n.12 (2011); *Kirksey v. State*, 112 Nev. 980, 1000, 923 P.2d 1102, 1115 (1996). And for the reasons discussed above, he fails to demonstrate that the district court erred by declining to address the merits of his claims.

opposition to his motion. He also fails to demonstrate the district court had any obligation to notify any authority in regard to his claims.

For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.

_____, C.J.
Gibbons

_____, J.
Bulla

_____, J.
Westbrook

cc: Hon. Bita Yeager, District Judge
Carlos Luzania Espinoza
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk