

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAMES EARNEST HOPE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 86670-COA

FILED

OCT 26 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

James Earnest Hope appeals from an order of the district court denying a motion to correct an illegal sentence filed on March 15, 2023. First Judicial District Court, Carson City; James Todd Russell, Judge.

In his motion, Hope claimed the sentencing court did not have jurisdiction to impose his sentence. Hope alleged that NRS 171.010 is the sole source of the sentencing court's authority to impose a sentence under the Nevada Revised Statutes and that the "statutory source law" of NRS 171.010, section 58 of the Criminal Practice Act of 1911, was repealed in 1957 as part of Senate Bill 2.

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). Hope did not allege that his sentence exceeded the statutory maximum.

Further, Hope failed to demonstrate that the sentencing court lacked jurisdiction to impose his sentence. While the laws in effect prior to 1957 were repealed in 1957, they were simultaneously reenacted as the

Nevada Revised Statutes in the same senate bill. *See* 1957 Nev. Stat., ch. 2, §§ 1, 3, at 1-2. And the simultaneous repeal of NRS 171.010's source law would not have affected its validity. *See* 1957 Nev. Stat., ch. 2, § 4(2), at 2 ("The provisions of Nevada Revised Statutes as enacted by this act shall be considered as substituted in a continuing way for the provisions of the prior laws and statutes repealed by section 3 of this act."). Therefore, we conclude the district court did not err by denying Hope's motion.

On appeal, Hope contends the district court erred by (1) mischaracterizing his claims, applying procedural bars, and failing to reach the merits of his motion; (2) refusing to investigate and take action on the State's alleged misconduct; (3) failing to strike the State's opposition; and (4) essentially agreeing in its order with the State's opposition. Because Hope's underlying claims lacked merit, he fails to demonstrate the alleged errors affected his substantial rights. *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. James Todd Russell, District Judge
James Earnest Hope
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk