

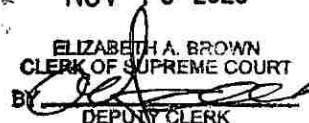
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ALBERT MEDINA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 86657-COA

FILED

NOV 13 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE AND REMANDING TO CORRECT  
JUDGMENT OF CONVICTION*

Albert Medina appeals from an order of the district court denying a motion to correct an illegal sentence filed on April 25, 2023. Eighth Judicial District Court, Clark County; Joseph Hardy, Jr., Judge.

In his motion and supporting memorandum, Medina sought to vacate his sentences because he alleged the sentencing court lacked jurisdiction to impose them. Medina claimed that the relevant sentencing statutes were repealed in 1957, are “non-constitutional” and have no actual connection to the Statutes of Nevada because they were not properly enacted, and lack enacting clauses. Medina alleged that, as a result, his sentences are necessarily at variance with the controlling statutes.

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). Medina did not allege that his sentences exceeded the statutory maximum.

Further, Medina failed to demonstrate that the sentencing court lacked jurisdiction to impose his sentences. While the laws in effect

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prior to 1957 were repealed in 1957, they were simultaneously reenacted as the Nevada Revised Statutes in the same senate bill.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by this act shall be considered as substituted in a continuing way for the provisions of the prior laws and statutes repealed by section 3 of this act."); *see also* Nev.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)).

Finally, the Statutes of Nevada contain the constitutionally mandatory enacting clauses, *see* Nev. Const. art. 4, § 23, and NRS 220.110 does not mandate that the enacting clauses be republished in the Nevada Revised Statutes. Therefore, we conclude the district court did not err by denying Medina's motion.

On appeal, Medina claims (1) he was deliberately denied his legal mail, depriving him of his ability to file a reply; (2) he was denied a full and fair hearing because he was unable to file a reply; (3) the State did not respond to the grounds presented in his motion and mischaracterized the issues presented; and (4) the district court erred by not properly addressing the grounds in his motion and, instead, letting the State's opposition control the court's decision. Because Medina'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.”). Therefore, we conclude Medina is not entitled to relief based on these claims.

Finally, Medina alleges the judgment of conviction contains a clerical error. It states that Medina was convicted pursuant to a guilty plea, but he was convicted pursuant to a jury verdict.<sup>1</sup> Because the district court has the authority to correct a clerical error at any time, *see* NRS 176.565, we direct the district court, upon remand, to enter a corrected judgment of conviction clarifying that Medina was convicted pursuant to a jury verdict. Accordingly, we

ORDER the judgment of the district court AFFIRMED and REMAND to the district court to correct the judgment of conviction.<sup>2</sup>

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

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

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<sup>1</sup>The district court was previously ordered to correct this same clerical error. *See Medina v. State*, 122 Nev. 346, 143 P.3d 471 (2006). However, it does not appear from the record before this court that it has been corrected.

<sup>2</sup>The Honorable Deborah L. Westbrook did not participate in the decision in this matter.

cc: Hon. Joseph Hardy, Jr., District Judge  
Albert Medina  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk