


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARC PAUL SCHACHTER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 87040-COA

FILED

FEB 15 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

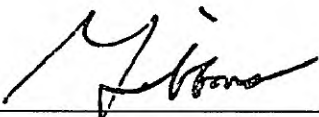
Marc Paul Schachter appeals from an order of the district court dismissing a postconviction petition for a writ of habeas corpus filed on October 4, 2022. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.


Schachter argues the district court erred by denying his petition because he is being held in excess of the maximum sentence for his primary offense. In 2015, Schachter was adjudged guilty of attempted robbery and was found to be a habitual criminal. In the judgment of conviction, the district court imposed a sentence for the attempted robbery charge and a concurrent sentence for the habitual criminal enhancement. While the direct appeal was pending, the district court issued a corrected judgment of conviction eliminating the sentence for the attempted robbery charge and leaving the sentence imposed pursuant to the habitual criminal statute. Several years later, Schachter filed a motion to correct an illegal sentence arguing that the district court lacked jurisdiction to issue the corrected judgment while his direct appeal was pending. This court agreed and ordered the district court to issue a new corrected judgment. *Schachter v.*

State, No. 84547-COA, 2022 WL 4128632 (Nev. Ct. App. Sept. 9, 2022) (Order Affirming in Part, Reversing in Part and Remanding).

In his petition, Schachter argued that at the time the current corrected judgment was filed, he had already expired any possible sentence he could receive for the primary offense of attempted robbery. Thus, he asserted, the district court's imposition of a sentence pursuant to the habitual criminal statute exceeded the district court's jurisdiction. Because Schachter was adjudged to be a habitual criminal at the sentencing hearing, the district court did not exceed its jurisdiction by imposing a sentence pursuant to the habitual criminal statute in the new corrected judgment of conviction. *See Tanksley v. State*, 113 Nev. 997, 1004, 946 P.2d 148, 152 (1997) ("The purpose of the habitual criminal statute is to increase sanctions for the recidivist and to discourage repeat offenders."). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Connie J. Steinheimer, District Judge
Marc Paul Schachter
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk