

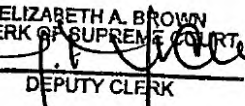
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DANIEL KUVEKE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 86720-COA

FILED

APR 10 2024

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Daniel Kuveke appeals from an order of the district court denying a motion to correct an illegal sentence filed on April 13, 2023. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

Kuveke contends the district court improperly denied his motion, because the State did not file and/or serve the opposition to his motion in a timely manner, thereby depriving him of the ability to file a reply. The State's opposition was untimely as it was filed 28 days after Kuveke served his motion. *See* DCR 13(3) (stating the opposing party shall serve and file an opposition within 14 days after service of the motion). However, the untimely opposition did not require the district court to grant Kuveke's motion. *See id.* (allowing, but not requiring, the district court to grant a motion where the opposition is untimely filed). Moreover, even assuming Kuveke was deprived of his ability to file a reply, *see* DCR 13(4) (stating the moving party may serve and file a reply within 7 days after service of the opposition), Kuveke is only entitled to relief if the inability to file a reply affected his substantial rights, *see* NRS 178.598.

In his motion, Kuveke sought to vacate his sentence because he alleged the sentencing court lacked jurisdiction to impose it. Specifically,

he claimed that NRS 171.010 lacks any statutory source within the Statutes of Nevada because the statutory source was repealed by Senate Bill 2 from 1957. 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). And such a motion “presupposes a valid conviction.” *Id.* (quotation marks omitted).

Although Kuveke purported to challenge the district court’s jurisdiction only insofar as it pertains to his sentencing, his arguments implicate the validity of Nevada’s entire statutory scheme and, thus, the validity of his conviction. Therefore, Kuveke’s claims are outside the scope of claims allowed in a motion to correct an illegal sentence. Kuveke has not indicated what his reply might have contained, and because his claims were outside the scope and were thus subject to summary dismissal, *see id.* at 708 n.2, 918 P.2d at 325 n.2, he fails to demonstrate that the alleged error affected his substantial rights. Therefore, we conclude Kuveke is not entitled to relief based on this claim.

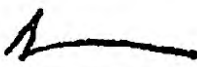
Kuveke also contends on appeal that the district court colluded with the State and showed a hostile and biased attitude toward him. Kuveke has not demonstrated that the district court colluded with the State. Further, he has not demonstrated that the district court was biased against him. The record does not indicate that the district court’s decision was 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 Jud. Dist. Ct.*, 138 Nev. 104, 107, 506 P.3d 334, 337 (2022) (internal quotation marks

omitted); *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, we conclude Kuveke is not entitled to relief on this claim.

For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Tierra Danielle Jones, District Judge  
Daniel Kuveke  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk