

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BENNETT GRIMES,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 84023-COA

FILED

JUL 20 2022

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Bennett Grimes appeals from an order of the district court denying a motion to modify or correct an illegal sentence filed on October 26, 2021. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

In his motion, Grimes first claimed his sentences were illegal because the sentencing court improperly imposed both deadly weapon and habitual criminal enhancements.<sup>1</sup> Grimes also appeared to claim the sentencing court imposed minimum sentences that exceeded those allowed by statute.

---

<sup>1</sup>Grimes was convicted of attempted murder with the use of a deadly weapon in violation of a temporary protective order (Count 1); burglary while in possession of a deadly weapon in violation of a temporary protective order (Count 2); and battery with the use of a deadly weapon constituting domestic violence resulting in substantial bodily harm in violation of a temporary protective order (Count 3). He appeared only to challenge the sentences imposed for Counts 2 and 3.

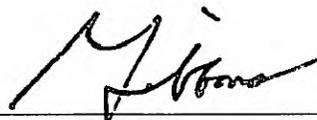
A motion to correct an illegal sentence may only challenge the facial legality of the sentence: either the district court was without jurisdiction to impose a sentence or the sentence was imposed in excess of the statutory maximum. *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). A sentence imposed pursuant to the habitual criminal statute cannot be further enhanced pursuant to NRS 193.165. *Odoms v. State*, 102 Nev. 27, 34, 714 P.2d 568, 572 (1986). Here, the sentencing court imposed the small habitual criminal enhancement to both Counts 2 and 3 but did not enhance the sentences pursuant to NRS 193.165. And the 8-to-20-year prison sentences imposed for both counts were facially legal. See 2009 Nev. Stat., ch. 156, § 1, at 567 (former NRS 207.010 (1)(a) (providing for a minimum term of imprisonment “not less than 5 years and a maximum term of not more than 20 years”)). Therefore, we conclude the district court did not err by denying this claim.

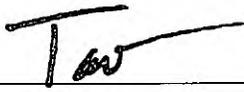
Grimes next claimed the State’s failure to timely file its notice of intent to seek habitual criminal adjudication deprived the sentencing court of jurisdiction to impose his sentences. Grimes also claimed that his convictions violated his right against Double Jeopardy and that his consecutive sentences were the result of the sentencing court misunderstanding federal sentencing guidelines. These claims fell outside the narrow scope of claims permissible in a motion to modify or correct an illegal sentence, see *Edwards*, 112 Nev. at 708, 918 P.2d at 324, and they do not implicate the jurisdiction of the district court, see Nev. Const. art 6, § 6(1); NRS 171.010; *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)). Therefore, we conclude the district court did not err by denying these claims.

For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

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

  
\_\_\_\_\_, J.  
Tao

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

cc: Hon. Michelle Leavitt, District Judge  
Bennett Grimes  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

---

<sup>2</sup>To the extent Grimes attempts to raise new claims on appeal, we decline to consider them in the first instance. *See McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999).