

THE UTAH COURT OF APPEALS

STATE OF UTAH,
Appellee,

v.

DAMON RUSSELL GONZALEZ,
Appellant.

Opinion
No. 20250365-CA
Filed October 1, 2026

Second District Court, Ogden Department
The Honorable Reuben J. Renstrom
No. 011901927

Troy L. Booher, J. Frederic Voros Jr., LaShel Shaw,
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JUDGE RYAN M. HARRIS authored this Opinion, in which
JUDGES GREGORY K. ORME and RYAN D. TENNEY concurred.

HARRIS, Judge:

¶1 In 2001, Damon Russell Gonzalez pled guilty to absconding while on parole. At that time, the district court sentenced him to prison and ordered him, as part of his sentence, to pay \$5,500 in restitution “as a condition of parole.” At some point, Gonzalez paid \$2,145 of that restitution amount, but when his sentence expired in 2006, the remainder was unpaid.

¶2 Many years later, in 2024, the district court purported to enter a civil judgment against Gonzalez for the outstanding \$3,355 plus interest. After learning of the judgment’s apparent entry, Gonzalez filed a motion asking the court for relief from the

judgment. The court denied that motion, concluding that the judgment merely corrected a clerical error that had occurred over two decades earlier, namely, the court's failure to enter a civil judgment in 2004 after being sent an unsigned order of restitution from the Board of Pardons and Parole (the Board).

¶3 Gonzalez appeals the court's order denying his motion for relief, asserting (among other things) that the Board's unsigned order of restitution could not support entry of a civil judgment in 2004 and that no error occurred at all, let alone one that could properly be characterized as clerical. In response, the State makes no effort to defend the district court's articulated basis for denying Gonzalez's motion (that a judgment should have entered in 2004); instead, the State asks us to affirm on various alternative grounds. Because the court's articulated basis for denying Gonzalez's motion is infirm and because we decline the State's invitation to affirm on any of its proffered alternative grounds, we reverse the court's denial of Gonzalez's motion and remand this case to the district court with instructions to grant the motion.

BACKGROUND

¶4 In June 2001, Gonzalez pled guilty to absconding while on parole, a third-degree felony, and the district court sentenced him to "an indeterminate term . . . not to exceed five years in the Utah State Prison." Other than the court's sentencing order, no written document regarding the plea is included in the record submitted to us, so the complete terms of the plea agreement are unclear. In the sentencing order—which was captioned "SENTENCE, JUDGMENT, COMMITMENT"—the court recited some of the terms of the plea agreement, including that Gonzalez agreed "to pay restitution . . . in the amount of \$5,500" and that the State agreed not to file a theft charge against Gonzalez that was apparently related to an ankle monitor he had failed to return. A few paragraphs later, the court included a section entitled "SENTENCE PROBATION PAYMENT NOTE" stating,

“[Gonzalez] shall pay restitution in the amount of \$5,500 to State of Utah, Department of Corrections *as a condition of parole.*” (Emphasis added.)

¶5 Later, while Gonzalez was serving his prison sentence, the Board considered him for parole, and as part of that process, Gonzalez entered into three agreements with the Board setting out his “conditions [for] parole”; each agreement contained a provision stating that as a “SPECIAL CONDITION” of parole, Gonzalez would “[p]ay restitution of \$5,500.” At some point thereafter, apparently while he was out on parole, Gonzalez paid \$2,145 toward that restitution amount. His parole ended when his sentence expired in June 2006, five years after his sentencing; at the time, he had yet to pay \$3,355 of the restitution amount.

¶6 After that, nearly eighteen years passed with no activity in the case. Then, in April 2024, the Office of State Debt Collection (the OSDC) levied Gonzalez’s income tax return, claiming that he owed \$9,857.53 in outstanding restitution.¹ Gonzalez disputed the levy by sending a letter to the OSDC claiming that no civil judgment had ever been entered in his case.

¶7 A few weeks later, and apparently in response to Gonzalez’s letter disputing the levy, the OSDC sent several documents to the district court. These documents—all dating back to 2004—included an “OSDC Civil Judgment Audit Report” and two letters. The audit report was time-stamped “04 Feb 2004” and indicated that, at that time, Gonzalez had a “Balance Due” of “\$3,355.” The two letters, both dated July 22, 2004, were addressed to the court from the Board and were written on the Board’s letterhead. The first letter “request[ed] that the enclosed Order of Restitution [b]e entered on the [c]ourt [d]ocket”; attached to this letter was an order of restitution stating that Gonzalez should “[p]ay restitution in the amount of \$3,355 to Adult Probation and

1. This amount appears to be the outstanding \$3,355 plus interest.

Parole.” The second letter purported to give notice that the Board’s “Order of Restitution ha[d] been submitted to the court for entry of civil judgment”; attached to this letter was a certificate of service stating that “on the 22nd day of July 2004,” a “true and correct copy of the foregoing Order of Restitution, postage prepaid,” had been sent to Gonzalez. Significantly, none of these documents were signed. That is, both letters, the order of restitution, and the certificate of service were all unsigned, despite some of them even containing a signature line (which remained blank). These unsigned documents were all entered into the court docket in June 2024; there is no indication in the docket that these documents were actually provided to the court back in 2004.

¶8 On June 14, 2024, the same day these documents were entered on the docket, two separate minute entries appeared on the docket. The first stated, “Judgment Entered – Amount \$3,355,” and the second stated, “Note: OSDC sent (2004) Civil Judgment Audit Report and requested the court enter the judgment that was ordered on 7/11/01. Judgment was not entered back in 2001 due to clerical oversight.”

¶9 Roughly two months later, on August 22, 2024, another minute entry appeared on the docket, which stated,

Judgment # 1 Modified 3,355.00
Judgment should have been entered at time of
sentencing 6/18/2001.
Creditor: STATE OF UTAH
Creditor: ADULT PROBATION AND PAROLE
Creditor: STATE DEBT COLLECTION
Debtor: DAMON GONZALEZ
5,500.00 Restitution
–2,145.00 Payment Made
3,355.00 Judgment Grand Total

No separate judgment document was entered or signed by the court at any point in 2024; these minute entries were the only indication that a “judgment” had been entered.

¶10 On September 11, 2024, less than thirty days after the August minute entry appeared on the docket, Gonzalez—before any attorney had entered an appearance on his behalf related to the 2024 judgment issues—filed a document he titled “MOTION AND MEMORANDUM IN SUPPORT FOR RELIEF FROM JUDGMENT UNDER UTAH R. CIV. P. 60(B)(3) AND TO CORRECT THE COURT RECORD.” In that document, Gonzalez argued that, for multiple reasons, no judgment should be enforced against him; among other things, he asserted that the Board’s order of restitution was improper because it was not signed, the judgment “was not made to correct a clerical error,” and any judgment “was based on misrepresentation and misconduct.” Gonzalez concluded by “request[ing] relief from the judgment” that had apparently been entered against him and by asking the court “to correct the court docket in this case . . . to show that the judgment was entered in error.”

¶11 The State filed a response, asserting that the court lacked jurisdiction to “review the legality of” the Board’s order of restitution and that the court’s actions had in any event been undertaken simply to correct a clerical error. The State also asserted that Gonzalez’s claims of misrepresentation and misconduct were “unsupported.”

¶12 After obtaining counsel, Gonzalez filed a reply to the State’s opposition. There, Gonzalez reiterated the substance of the arguments made in his motion, but as relevant here, the reply also expressly identified two other subsections of rule 60(b) of the Utah Rules of Civil Procedure—subsections (4) and (6)—that Gonzalez believed were implicated by his motion. The reply also claimed that relief from the judgment was justified because no judgment

had ever been “signed by the judge” or even “reviewed or authorized by a judge.”

¶13 After oral argument, the court issued a written ruling denying Gonzalez’s motion. As an initial matter, the court ruled that the clerk’s docket entries in June and August 2024 constituted the entry of a civil judgment against Gonzalez. From there, the court agreed with the State that it was not permitted to “address the validity of the Board’s restitution order.” In addition, the court determined that the “failure to convert the criminal restitution order to a civil judgment resulted from mere clerical oversight or omission, which may be corrected at any time.” And finally, the court concluded that “the act of recording [the] judgment did not constitute misrepresentation or misconduct.” Accordingly, the court determined that the record had been properly “corrected” in June 2024, “when the civil judgment was entered against” Gonzalez, and that these actions reflected what had “actually” been “intended in 2004.”

ISSUE AND STANDARD OF REVIEW

¶14 Gonzalez now appeals, challenging the district court’s order denying his motion for relief from the judgment. “As a general matter, we review a district court’s denial of a rule 60(b) motion under an abuse of discretion standard.” *Miner v. Miner*, 2025 UT App 64, ¶ 12, 571 P.3d 788 (cleaned up), *cert. denied*, 574 P.3d 526 (Utah 2025). “More specifically, however, in the context of a denial of a rule 60(b) motion, we review a district court’s findings of fact under a clear error standard of review, while we review a district court’s conclusions of law for correctness, affording the district court no deference.” *Id.* (cleaned up).

ANALYSIS

¶15 Gonzalez challenges the court’s order denying his motion for relief, and much of the argument in his opening brief is aimed at assailing the rationale underlying the court’s denial: that the court in 2004 had actually “intended” to enter a civil judgment against Gonzalez based on the unsigned order of restitution the Board had apparently sent to the court and that mere clerical oversight kept this intention from being realized. Gonzalez points out—correctly—that the Board’s order was ineffective because it was unsigned and because the statutory time period within which the order could have been signed has long since passed. *See Simper v. Board of Pardons & Parole*, 2024 UT App 122, ¶¶ 12, 17, 557 P.3d 240 (agreeing with the appellant’s contention that “the Board did not have jurisdiction to enter any of the restitution orders in [that] case because the Board failed to sign the orders within the time period prescribed by statute”). Indeed, in its appellate brief, the State makes no effort to defend the court’s order on this basis.

¶16 Instead, the State asks us to affirm the court’s order on any one of three alternative grounds. “It is well settled that an appellate court may affirm the judgment appealed from if it is sustainable on any legal ground or theory apparent on the record, even though such ground or theory differs from that stated by the [district] court to be the basis of its ruling.” *Bailey v. Bayles*, 2002 UT 58, ¶ 10, 52 P.3d 1158 (cleaned up); *see also Olguin v. Anderton*, 2019 UT 73, ¶ 20, 456 P.3d 760 (“It is within [an appellate court’s] discretion to affirm a judgment on an alternative ground if it is apparent in the record.” (cleaned up)). First, the State offers a procedural basis for affirmance: that the court had no jurisdiction to consider Gonzalez’s motion. Second, the State points out that Gonzalez’s pro se motion, on its face, sought relief only under rule 60(b)(3), and notes that Gonzalez makes no argument about rule 60(b)(3) in his appellate brief. Finally, the State asserts that the court’s entry of judgment in 2024 corrected a clerical error made in 2001, at the time of sentencing, rather than in 2004. We discuss

each of these arguments, in turn, but we find none of them persuasive; therefore, we decline the State's invitation to affirm the court's order on alternative grounds.

I. Jurisdiction

¶17 First, the State argues that we should affirm the district court's order on the alternative basis that the court did not have jurisdiction to consider Gonzalez's motion for relief. Specifically, the State argues that "under Gonzalez's theory"—which it characterizes as the theory that the 2024 minute entries did not constitute a final judgment because they were not memorialized in a separate judgment document signed by the court—the judgment in question did not become final until 150 days after the minute entries appeared on the docket, *see* Utah R. Civ. P. 58A(e)(2), making Gonzalez's motion for relief problematic because it was filed "a full two months before" the 150-day period concluded. The State asserts that "[w]hen a party files a [r]ule 60(b) motion before final judgment, the motion is treated as a pre-judgment motion to reconsider," and it posits that such motions "are necessarily disposed of when the final judgment is entered, even if the district court does not separately rule on them." Thus, the State suggests that the district court lost jurisdiction to rule on Gonzalez's motion once the 150-day period ran.

¶18 Gonzalez disagrees, arguing that "what the State calls 'Gonzalez's theory' is not and has never been Gonzalez's theory." Moreover, Gonzalez points out that "the State's artfully worded argument avoids ever asserting" that either the district court or this court "in fact lack[ed] jurisdiction, or even that the State believes that" they did. In this vein, he urges us not to "find a lack of jurisdiction based on a theory that the State itself does not believe is correct." We agree with Gonzalez.

¶19 When a district court makes a determination that neither party challenges on appeal, we generally presume for purposes of our analysis that the court's determination was correct. *See*

Williamson v. Farrell, 2019 UT App 123, ¶ 12, 447 P.3d 131 (“The district court determined that all four . . . threshold elements were met, and [the] defendants do not challenge that determination on appeal. Therefore, we presume for purposes of our analysis that all four threshold requirements are indeed met here.” (cleaned up)). Here, in its order denying Gonzalez’s motion, the district court concluded that the clerk’s docket entries in June and August 2024 constituted the entry of a civil judgment against Gonzalez. Neither party challenges this conclusion on appeal.

¶20 To be sure, Gonzalez did argue, before the district court, that the 2024 minute entries could not constitute a final judgment. But his argument was that they could not constitute such a judgment because they were never signed by the judge, and not simply because they were not memorialized in a separate rule 58A document. Under the theory he advanced before the district court, the minute entries could *never* ripen into a final judgment. In any event, Gonzalez does not advance that theory here on appeal; indeed, both parties now appear to accept the district court’s determination that the 2024 minute entries constituted a final judgment that could be challenged by means of a rule 60(b) motion or, alternatively, in an appeal.

¶21 Thus, no jurisdictional infirmity is apparent on the record presented to us, and no party actually advances any such argument. In this situation, we decline the State’s invitation to affirm on this first alternative ground.

II. Scope of Gonzalez’s Motion

¶22 Next, the State asks us to affirm the district court’s order denying Gonzalez’s motion on the alternative ground that the motion requested relief only under rule 60(b)(3) and that Gonzalez does not take issue, on appeal, with the district court’s conclusion that “the act of recording [the] judgment did not constitute misrepresentation or misconduct.” Gonzalez acknowledges that, in his appellate brief, he does not assail the

court's conclusions regarding rule 60(b)(3), but he contends that "[t]he substance of [his motion], not its title, controls the scope of" our review, and he asserts that "[t]he heart of [his] challenge," as set forth in the memoranda he filed before the district court, "focused on the district court's ability to validly enter a civil judgment after a twenty-year delay, based on an unsigned Board of Pardons order and through a clerk's docket entry purporting to correct a clerical error." We again agree with Gonzalez.

¶23 Gonzalez's observation about the substance of the motion being important is correct: our supreme court has stated that "it is the substance, not the labeling, of a motion that is dispositive in determining the character of the motion." *Bishop v. GenTec Inc.*, 2002 UT 36, ¶ 28, 48 P.3d 218 (cleaned up); *see also Trapnell & Assocs., LLC v. Legacy Resorts, LLC*, 2020 UT 44, ¶ 55, 469 P.3d 989 (holding that a filing's "caption is not necessarily dispositive of its substance" (cleaned up)). And these principles are especially important when a motion is filed by a self-represented litigant. *See Noor v. State*, 2019 UT 3, ¶ 57, 435 P.3d 221 (stating that Utah courts "have always been lenient to pro se litigants because of their lack of knowledge of law and procedure" and that courts should "grant pro se litigants every consideration that may reasonably be indulged" (cleaned up)).

¶24 Gonzalez's motion for relief was filed at a time when he was proceeding without the benefit of legal counsel. It is certainly true that in the caption of that motion, Gonzalez mentioned only subsection (3) of rule 60(b). But in the body of the motion, Gonzalez made arguments that invoke other subsections of rule 60(b). For instance, he argued that the Board's order of restitution was improper because it was not signed and that the judgment "was not made to correct a clerical error." These arguments don't have anything to do with fraud, misrepresentation, or misconduct, *see* Utah R. Civ. P. 60(b)(3), and instead invoke principles contained in other sections of rule 60(b), *see id.* R. 60(b)(4), (6) (allowing relief when "the judgment is void" or for

“any other reason that justifies relief”). In its opposition to Gonzalez’s motion, the State responded to these additional arguments, asserting that the court lacked jurisdiction to “review the legality of” the Board’s unsigned order of restitution and that the court’s actions had in any event been undertaken simply to correct a clerical error. And in his reply brief—filed after he had obtained the assistance of an attorney—Gonzalez expressly identified subsections (4) and (6) of rule 60(b) as being implicated by the arguments he had made in his opening memorandum.

¶25 After that, oral argument was heard on each of these issues, and at no point did the State assert that Gonzalez had not properly invoked subsections (4) and (6) of rule 60(b). Indeed, the court, in its eventual written order, specifically addressed the non-fraud and non-misrepresentation arguments Gonzalez had made, even though it did not specifically cite subsections (4) and (6). Thus, the court itself recognized that Gonzalez’s motion had invoked principles implicated by subsections of rule 60(b) other than subsection (3), and it made on-the-merits rulings on those arguments. Under these circumstances, it seems clear that everyone understood that Gonzalez’s motion, in its substance, was not limited to arguments related to fraud, misrepresentation, or misconduct pursuant to subsection (3).

¶26 The State resists this conclusion by arguing that “the district court did more than was necessary to resolve Gonzalez’s [r]ule 60(b)(3) motion” and that this unnecessary analysis cannot serve to “expand the scope of appellate review.” But in our view, the State reads the court’s order too narrowly. In that order, the court stated that “[t]he dispositive issue” was “whether the failure to convert the underlying order of restitution to a civil judgment . . . was caused by a clerical error.” Where, in the district court’s view, the “dispositive” issue had nothing to do with fraud, misrepresentation, or misconduct, the court’s analysis on non-subsection-(3) issues cannot be said to have been unnecessary.

¶27 Accordingly, because it is not apparent in the record that the parties or the court understood Gonzalez’s motion to be confined to rule 60(b)(3) issues, we decline the State’s invitation to affirm the district court’s order on the alternative ground that the scope of Gonzalez’s appeal must be confined to rule 60(b)(3).

III. 2001 Sentencing

¶28 Finally, the State invites us to affirm the district court’s order on the alternative ground that the court properly corrected a clerical error made in connection with the 2001 sentencing. As noted, this is not the ruling the district court made; recall that the court determined that a clerical error had been made in 2004, when the Board purportedly sent its unsigned order of restitution to the court.

¶29 Under rule 30(b) of the Utah Rules of Criminal Procedure, “[c]lerical mistakes in judgments, orders or other parts of the record and errors in the record arising from oversight or omission may be corrected by the court at any time and after such notice, if any, as the court may order.” Utah R. Crim. P. 30(b). “The purpose of rule 30(b) and its civil counterpart, rule 60(a) of the Utah Rules of Civil Procedure, is to correct clerical errors so that the record reflects what was actually done or intended.” *State v. Rodrigues*, 2009 UT 62, ¶ 14, 218 P.3d 610 (cleaned up). But rule 30(b) cannot be used to correct *judicial* errors, which are errors “made in rendering the judgment and [that result] in a substantively incorrect judgment.” *Id.* (cleaned up); *see also State v. Wynn*, 2017 UT App 211, ¶ 28, 407 P.3d 1113 (stating that when a “claimed error is the result of judicial reasoning and decision making, it is not the sort of error correctible under rule 30(b)” (cleaned up)).

¶30 We must therefore assess whether it is apparent on the record submitted to us that the court committed an error that is necessarily clerical in nature (rather than judicial). According to the State, the putative error occurred in 2001, when the district court, in connection with Gonzalez’s sentencing, did not “enter an

order of complete restitution on the civil judgment docket.” Gonzalez takes a different view, asserting that it is not apparent, on this record, that the court erred at all by not entering a civil judgment in 2001, and that even if there was an error made at that point, it would have been judicial error and not clerical error. Again, we largely agree with Gonzalez.

¶31 For starters, we don’t think it is clear from this record that the court committed any error at all in 2001. As noted, the record submitted to us does not contain a copy of any plea agreement, so we don’t know the complete terms of the agreement Gonzalez reached with the State. It is certainly not implausible that Gonzalez might have agreed to pay restitution *only* as a condition of parole; this would, for instance, have provided the Board with additional incentive to actually grant him parole when he became eligible. If the terms of the plea agreement did not call for a civil judgment to be entered against Gonzalez in 2001 in connection with sentencing, then the court would not have committed any error in not entering such a judgment.

¶32 Moreover, even if the factual terms of the parties’ plea agreement allowed the district court to enter a civil judgment against Gonzalez at sentencing, it was less than clear, at the time, whether the court was statutorily *required* to do so. In his appellate brief, Gonzalez posits that the then-governing statutes gave sentencing courts two equally valid options in a situation like this: (a) order the defendant, as part of the sentence, to pay restitution in an amount certain and enter an order in that amount on the civil judgment docket, *see* Utah Code § 76-3-201(4)(a)(i), (iii) (2001), or (b) leave all restitution questions to the Board, which had the power to order parolees to pay restitution in an amount the Board deemed appropriate, *see id.* § 77-27-6(1)–(4).

¶33 Assuming Gonzalez is correct, there are certain indications in the record that the court, at the 2001 sentencing, intended to select option (b). First, it did not enter a civil judgment, and that

may well have been purposeful. Second, the court stated, in its sentencing order, that Gonzalez “shall pay restitution in the amount of \$5,500 to State of Utah, Department of Corrections *as a condition of parole*” (emphasis added), which indicates that the court may have intended for the restitution obligation to spring into being only in the event that Gonzalez was released on parole. Third, the Board actually *did* take over responsibility for supervising Gonzalez’s restitution payments, even going so far as apparently attempting (in 2004) to enter its own order of restitution. And fourth, the district court, in the written order challenged here, made no finding that the court had intended to enter a civil judgment in 2001; rather, the court found that the error in question had occurred *in 2004*.

¶34 The State, however, pushes back against Gonzalez’s contention that the statutes in effect in 2001 offered the court two permissible paths; it contends that, under those statutes, the court had no choice but to enter a civil judgment for the restitution amount set forth in a sentencing order. In other words, the State argues that the statutes permitted only one course of action. Operating from this premise, the State then assumes that any deviation from that course of action must have constituted a clerical error. But in our view, this oversimplifies things.

¶35 If the district court, back in 2001, misinterpreted the applicable statutory scheme, that would have been a *judicial* error, not a clerical one. *See, e.g., Wynn*, 2017 UT App 211, ¶ 28 (stating that when a “claimed error is the result of judicial reasoning and decision making, it is not the sort of error correctible under rule 30(b)” (cleaned up)). And it is far from clear, on this record, that the court’s failure to enter a civil judgment did not result from the court reading the statutes in the same way as Gonzalez now does. If the situation resulted from an intentional choice the court made—correctly or not—after reviewing and interpreting the governing statutes, then that situation did not flow from a clerical error; any error would have been judicial.

¶36 Indeed, Gonzalez’s current reading of the statutes then in effect—that there were two permissible paths for the court to take—would have been at least plausible at the time. We certainly acknowledge the State’s argument that one set of statutes—the ones found in Title 76, Part 3—contains language that appears to make entry of a civil judgment mandatory. *See* Utah Code § 76-3-201(4)(i), (iii) (2001) (stating that when “a person is convicted of criminal activity that has resulted in pecuniary damages,” the court “*shall* order that the defendant make restitution” and “*shall* enter an order of complete restitution . . . on the civil judgment docket” (emphasis added)). But the other set of statutes—the ones found in Title 77, Part 27—contains language indicating that such orders can be entered by the Board and not by the court. *See id.* § 77-27-6(1) (stating that when the Board releases an inmate on parole “who has been sentenced to make restitution . . . or whom the Board has ordered to make restitution,” the Board “may establish a schedule” for payment of that restitution amount). Indeed, some years later, in *State v. Grant*, 2021 UT App 104, 499 P.3d 176, the State took the position that “both the district court and the Board have the authority to order court-ordered restitution.” *Id.* ¶ 55. While we ruled against the State on that point in *Grant*, the fact that the State espoused that position is an indication that the statutes could at least plausibly have been interpreted in the way Gonzalez now interprets them.

¶37 Given all of this, it is not apparent on this record that the court made any error at all in opting not to enter a civil judgment in 2001 at the time of Gonzalez’s sentencing. Nor is it apparent on this record that—assuming the court *did* err—any error was clerical in nature rather than judicial. Accordingly, because the proffered alternative basis for affirmance is not apparent on the record submitted to us, we decline the State’s invitation to affirm the district court’s order on this third alternative ground.

CONCLUSION

¶38 Because the court's articulated basis for denying Gonzalez's motion for relief is infirm and because we decline the State's invitation to affirm the court's order on any of its three proffered alternative grounds, we reverse the court's denial of Gonzalez's motion and remand this case to the district court with instructions to grant the motion.
