

IN THE SUPREME COURT OF THE STATE OF NEVADA

MAURO GAMBOA MARZAN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 43465

**FILED**

FEB 03 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of possession of a controlled substance with the intent to sell. Eighth Judicial District Court, Clark County; Valorie Vega, Judge. The district court sentenced appellant to a prison term of 12 to 32 months.

Appellant contends that his right to due process and equal protection were violated because the district court improperly considered appellant's immigration status in rendering the sentence. Although appellant's status as an illegal immigrant was mentioned in the presentence investigation report, the district judge made no mention of appellant's status or nationality at sentencing. We therefore conclude that the district court did not rely on appellant's immigration status in

imposing the sentence, and that appellant's contention is therefore without merit.<sup>1</sup> Accordingly, we

ORDER the judgment of conviction AFFIRMED.

Becker \_\_\_\_\_, C.J.  
Becker

Rose \_\_\_\_\_, J.  
Rose

Hardesty \_\_\_\_\_, J.  
Hardesty

cc: Hon. Valorie Vega, District Judge  
Clark County Public Defender Philip J. Kohn  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>1</sup>Cf. Martinez v. State, 114 Nev. 735, 738, 961 P.2d 143, 145-46 (1998) (where district court relies on defendant's nationality in its sentence determination, the defendant's right to due process is violated).