

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAMON LAMONT MATHEWS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 48306

**FILED**

**FEB 28 2007**

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a nolo contendere plea, of one count of attempted sexual assault. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge. The district court sentenced appellant Damon Lamont Mathews to serve a prison term of 96 to 240 months.

Mathews argues that the sentencing court abused its discretion and denied him a fair sentencing hearing. In particular, Mathews contends that the district court relied upon palpable evidence—an inaccurate psychosexual evaluation which determined that Mathews was a high risk to re-offend. Mathews claims the report was unreliable because it contained conflicting information, concluding that Mathews had both a high I.Q and poor mental functioning, and that Mathews was both "difficult to interview" and "communicated very well during the interview." We conclude that Mathews' contention lacks merit.

As a preliminary matter, we note that Mathews has failed to provide this court with a copy of the psychosexual evaluation at issue.<sup>1</sup> Nonetheless, even assuming the report was unreliable, there is no indication that the district court relied on the psychosexual evaluation in imposing sentence. To the contrary, the sentencing court acknowledged defense counsel's objection to the evaluation and explained that it did not affect the determination of Mathews' sentence. The district court explained that, in determining a sentence, it considers work history, family history, criminal record, and the "record of how they've been on probation [and] in prison." The district court noted that Mathews had prior serious convictions, had been to prison twice, and found Mathews to be a "very violent, very dangerous, sexual predator." The district court also noted that Mathews received a substantial benefit from the guilty plea in that it would have sentenced him to a life prison term if he had been convicted, after a jury trial, on the original charges of first-degree kidnapping and sexual assault. Given the district court's explanation about the sentence, Mathews has failed to show "prejudice resulting from consideration of information or accusations founded on facts supported

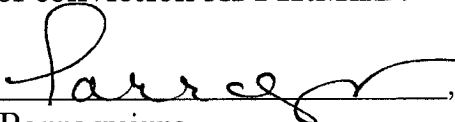
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<sup>1</sup>We emphasize that it is the responsibility of counsel to provide documents necessary to resolve an appeal. See NRAP 28(e), NRAP 30(b); Greene v. State, 96 Nev. 555, 558, 612 P.2d 686, 688 (1980). We have therefore relied on the description of the evaluation at the sentencing hearing and in the appellate briefs as neither party questions the accuracy of those descriptions.

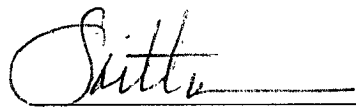
only by impalpable or highly suspect evidence."<sup>2</sup> Accordingly, the district court did not abuse its discretion at sentencing.

Having considered Mathews' contentions and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.

 J.  
Parraguirre

 J.  
Hardesty

 J.  
Saitta

cc: Hon. Stewart L. Bell, District Judge  
Keith C. Brower  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk

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<sup>2</sup>Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).