

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICARDO DAVID LLAMAS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53678

FILED

JAN 07 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of two counts of assault with a deadly weapon with intent to promote the activities of a criminal gang and one count of assault with a deadly weapon. First Judicial District Court, Carson City; James Todd Russell, Judge. The district court sentenced appellant Ricardo David Llamas to serve various consecutive and concurrent prison terms totaling 112 to 288 months.

Relying on U.S. v. Sandoval, 152 F.3d 1190 (9th Cir. 1998), Llamas contends that the district court erred when determining his sentence by considering his prior misdemeanor conviction for being a minor in possession of alcohol. However, because Nevada does not adhere to the federal sentencing guidelines, Sandoval is inapposite. Moreover, a sentencing court may consider prior misdemeanor convictions when determining an appropriate sentence. See NRS 176.015(6); Hughes v. State, 112 Nev. 84, 87, 910 P.2d 254, 255 (1996).

To the extent appellant contends that the district court erred by failing to make specific findings on the record to support the sentences imposed for the gang enhancements, we disagree. Because Llamas did not object to the district court's findings during sentencing, we review this

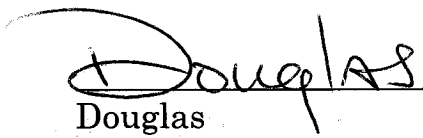
contention for plain error. NRS 178.602; Mendoza-Lobos v. State, 125 Nev. ___, ___, 218 P.3d 501, 507 (2009); see also Puckett v. United States, 446 U.S. ___, 129 S. Ct. 1423, 1428-29 (2009).

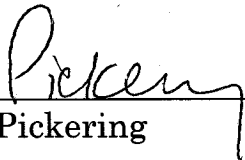
NRS 193.168(1) requires the district court to consider five enumerated factors when imposing a sentence for a gang enhancement and to articulate findings on the record with regard to each factor. See Mendoza-Lobos, 125 Nev. at ___, 218 P.3d at 507. Here, the district court articulated findings regarding each of the enumerated factors. Thus, no plain error occurred.

Having considered appellant's contentions and concluded that they are without merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. James Todd Russell, District Judge
Kay Ellen Armstrong
Attorney General Catherine Cortez Masto/Carson City
Carson City District Attorney
Carson City Clerk