

IN THE SUPREME COURT OF THE STATE OF NEVADA

JEROLD JAMES WERNER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53851

FILED

DEC 03 2009

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 jury verdict, of one count each of robbery with the use of a deadly weapon, attempted robbery with the use of a deadly weapon and being an ex-felon in possession of a firearm. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge. The district court sentenced appellant Jerold James Werner to serve prison terms of 60 to 160 months for the robbery plus an equal and consecutive term for the deadly weapon enhancement, 24 to 72 months for the attempted robbery plus a consecutive term of 12 to 72 months for the deadly weapon enhancement, and 12 to 48 months for being an ex-felon in possession of a firearm.

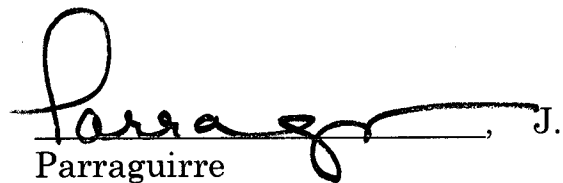
Werner contends that the district court made inadequate findings, pursuant to NRS 193.165(1), in determining the sentences imposed for the deadly weapon enhancements. We agree, however, we conclude that the error does not warrant reversal.

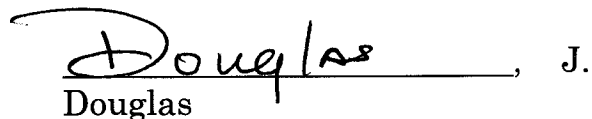
NRS 193.165(1) requires the district court to consider five enumerated factors when imposing a sentence for a deadly weapon enhancement—(1) the facts and circumstances of the crime, (2) the

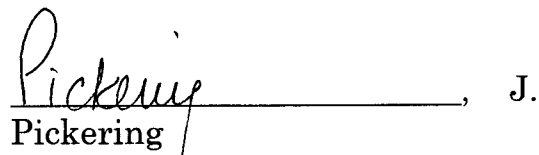
defendant's criminal history, (3) the impact of the crime on the victim, (4) any mitigating factors, and (5) any other relevant information—and to state on the record that it has considered these factors. This court recently held that compliance with NRS 193.165(1) requires the district court to articulate findings on the record with regard to each factor, and that the findings must be specific to each enhancement. Mendoza-Lobos v. State, 125 Nev. ___, ___ P.3d ___ (Adv. Op. No. 49, October 29, 2009).

Here, the district court articulated findings regarding Werner's criminal history, but failed to make findings regarding the other factors. Thus, the district court committed error. However, Werner did not object, and the State and defense counsel presented the court with information regarding each of the factors enumerated in NRS 193.165(1). And, it does not appear from the record that the district court's failure to articulate sufficient findings regarding the enumerated factors had any bearing on its sentencing determination. Therefore, we conclude the error did not affect Werner's substantial rights and does not warrant reversal. Grey v. State, 124 Nev. ___, ___, 178 P.3d 154, 163 (2008); Valdez v. State, 124 Nev. ___, ___, 196 P.3d 465, 477 (2008). Accordingly, we

ORDER the judgment of conviction AFFIRMED.

 J.
Parraguirre

 J.
Douglas

 J.
Pickering

cc: Hon. Steven P. Elliott, District Judge
Washoe County Public Defender
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk