

IN THE SUPREME COURT OF THE STATE OF NEVADA

SEMARIO S. MCNAIR,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 58918

**FILED**

**NOV 18 2011**

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a motion for sentence modification.<sup>1</sup> Eighth Judicial District Court, Clark County; Valorie J. Vega, Judge.

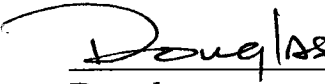
In his motion filed on June 21, 2011, appellant claimed that the presentence report contained errors, the district court never clarified how the deadly weapon was used, and the district court did not state that it had considered the factors set forth in NRS 193.165. Appellant failed to demonstrate that the district court relied on mistaken assumptions regarding his criminal record that worked to his extreme detriment. See Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Appellant failed to identify any alleged errors in the presentence report. Notably, appellant entered a guilty plea to the crime of robbery with the use of a deadly weapon, and thus, the district court had the authority to impose

---

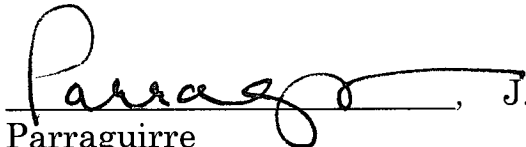
<sup>1</sup>This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

the deadly weapon enhancement. See Blakely v. Washington, 542 U.S. 296, 303 (2004) (recognizing that the statutory maximum that may be imposed is the maximum sentence a judge may impose solely on the basis of the facts reflected in the jury verdict or admitted by the defendant). We therefore conclude that the district court did not err in denying appellant's motion. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Douglas

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

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Valorie J. Vega, District Judge  
Semario S. McNair  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk