

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN STAMM,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58963

FILED

DEC 07 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Inge*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of voluntary manslaughter with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

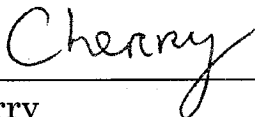
Appellant John Stamm claims that the district court did not properly apply NRS 193.165(1), which requires the district court to consider on the record certain factors before imposing a deadly weapon enhancement. Stamm argues that the district court's failure to make these findings requires the case to be remanded for resentencing. Because Stamm did not object below, we review this claim for plain error affecting his substantial rights. See Mendoza-Lobos v. State, 125 Nev. ___, ___, 218 P.3d 501, 507 (2009).

The record shows that the district court's sentencing rationale was based on "the incredibly reckless and dangerous and senseless act." Specifically, the district court was aware that Stamm was a gang member and had prior violent juvenile adjudications. Further, the district court was informed that while out on bail for this offense Stamm was involved in criminal activity. Although the district court did not strictly follow


Mendoza-Lobos' mandate, the record provides sufficient justification for the sentence and the failure to explain that ruling more completely does not render it constitutionally defective. See Arizona v. Washington, 434 U.S. 497, 516-17 (1978) (holding that explicit statements regarding a trial court's rationale is desirable but not required). Additionally, we note that Stamm's sentence of 36 to 120 months in prison is within the statutory limits, see NRS 200.080; NRS 193.165. When a sentence is within the statutory limits we afford the district court wide discretion. See, e.g., Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). Accordingly, we conclude that Stamm failed to demonstrate plain error in this regard.

Having considered Stamm's contention and concluded it lacks merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Cherry


_____, J.
Gibbons


_____, J.
Pickering

cc: Hon. Jessie Elizabeth Walsh, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk