

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRIAN ROBERT HOBBS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 61988

FILED

JUN 13 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *R. Malone*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of second-degree murder with the use of a deadly weapon. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

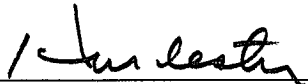
Appellant argues that the district court failed to articulate specific factual findings regarding each factor mandated by NRS 193.165 and that he must be resentenced. As appellant did not object below, we review his claim for plain error affecting his substantial rights. *See Mendoza-Lobos v. State*, 125 Nev. 634, 644, 218 P.3d 501, 507 (2009). NRS 193.165(1) identifies five factors the district court must consider in determining the length of the additional penalty for the deadly weapon enhancement, and we have held that compliance with NRS 193.165 requires that the district court articulate findings on the record with regard to each factor. *Id.* at 643, 218 P.3d at 507.

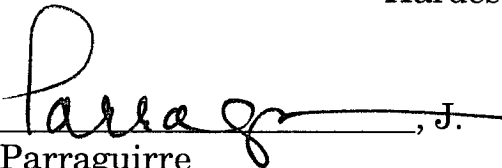
Here, the district court stated on the record that it had considered the facts and circumstances of the crime, the appellant's criminal history, the impact on the victims, and the mitigation presented by defense counsel. While appellant argues that the district court merely

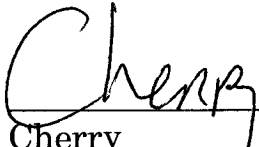
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conducted a rote recitation of the factors, the record reveals that the victim's mother and sister testified at sentencing regarding the impact of the crime on the family and the district court made note of their pain, sorrow, and loss. The district court heard from defense counsel regarding appellant's criminal history and substance abuse and from the State regarding the facts and circumstances of the crime. We conclude that the record demonstrates that the district court considered all the factors set forth in NRS 193.165(1) and provides sufficient justification for the sentence imposed. Therefore, appellant failed to demonstrate plain error, and we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

cc: Hon. Connie J. Steinheimer, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk