

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANCISCO LOPEZ,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 38892

FILED

MAR 14 2002

ORDER OF AFFIRMANCE

YVETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

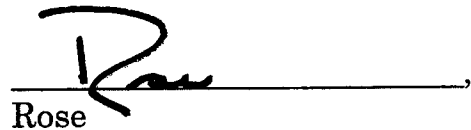
This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of battery with the use of a deadly weapon. The district court sentenced appellant to a prison term of 24 to 72 months, and ordered appellant to pay restitution in the amount of \$3,012.22.

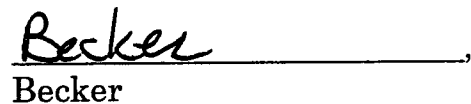
Appellant contends that he is entitled to a new sentencing hearing because the district court improperly considered appellant's nationality in rendering the sentence. Although the district judge mentioned appellant's immigration status in passing, the district judge specifically stated that she was basing the sentence on appellant's actions in this case. We therefore conclude that the district court did not rely on

appellant's nationality in imposing the sentence, and that appellant's contention is therefore without merit.<sup>1</sup> Accordingly, we

ORDER the judgment of conviction AFFIRMED.

 J.  
Shearing

 J.  
Rose

 J.  
Becker

cc: Hon. Kathy A. Hardcastle, District Judge  
Attorney General/Carson City  
Clark County District Attorney  
Clark County Public Defender  
Clark County Clerk

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<sup>1</sup>Cf. Martinez v. State, 114 Nev. 735, 738, 961 P.2d 143, 145-46 (1998) (where district court relies on defendant's nationality in its sentence determination, the defendant's right to due process is violated).