

IN THE SUPREME COURT OF THE STATE OF NEVADA

RAFAEL BORJAS-RIOS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 38907

FILED

AUG 21 2002

ORDER OF AFFIRMANCE

JANETTE M BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK


This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of assault with the use of a deadly weapon. The district court sentenced appellant to a prison term of 12 to 36 months.

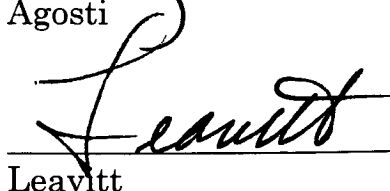
Appellant's sole contention is that the district court violated his right to due process by basing the sentencing decision on appellant's immigration status. The district judge, however, specifically stated that the sentence was based on the fact that appellant committed a very violent act for a relatively small amount of money. The district judge further stated that she did not rely on appellant's immigration status in any way

in rendering the sentencing decision. We therefore conclude that appellant's contention is without merit.¹ Accordingly, we

ORDER the judgment of conviction AFFIRMED.

 _____, J.
Young

 _____, J.
Agosti

 _____, J.
Leavitt

cc: Hon. Valorie Vega, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Clark County Clerk

¹Cf. Martinez v. State, 114 Nev. 735, 737-38, 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).