

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID A. NORTH,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 40697

**FILED**

FEB 11 2004

ORDER OF AFFIRMANCE

J. NETTE 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 36 to 120 months.

Appellant's sole contention is that the presentence report was incorrect in that it stated that appellant shot the victim 3 to 5 times, when appellant actually shot the victim only once. This court notes that appellant failed to provide a copy of the presentence investigation report. "The burden to make a proper appellate record rests on [the] appellant."<sup>1</sup> We are unable to determine whether the presentence report was incorrect because of appellant's failure to provide a copy of the report.

However, this court's review of the sentencing transcript reveals that the prosecutor mentioned that the victim was shot twice, and there was no objection by counsel for appellant. Additionally, counsel for appellant did not indicate to the court that there were any corrections to be made to the presentence investigation report. We therefore conclude that appellant has not demonstrated that the district court relied on

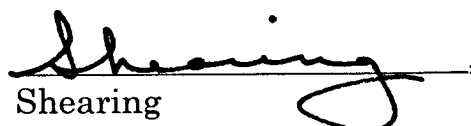
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<sup>1</sup>Greene v. State, 96 Nev. 555, 558, 612 P.2d 686, 688 (1980).


impalpable or highly suspect evidence.<sup>2</sup> Accordingly, this court will not interfere with the sentence imposed.

Having considered appellant's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.

 \_\_\_\_\_, C.J.  
Shearing

 \_\_\_\_\_, J.  
Rose

 \_\_\_\_\_, J.  
Maupin

cc: Hon. Nancy M. Saitta, District Judge  
David T. Brown  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>2</sup>See Silks v. State, 92 Nev. 91, 545 P.2d 1159 (1976).