

IN THE SUPREME COURT OF THE STATE OF NEVADA

WIL PAIGE PENNY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55400

FILED

JUL 19 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of robbery with the use of a firearm. Second Judicial District Court, Washoe County; Robert H. Perry, Judge.

Appellant Wil Penny contends that the district court erred when imposing his sentence because it punished him for a prior uncharged crime. Although the district court heard a victim impact statement authored by a victim to Penny's prior uncharged crime, the record does not support Penny's contention that the district court punished him for that crime when imposing sentence. See Denson v. State, 112 Nev. 489, 494, 915 P.2d 284, 287 (1996) (the district court may not sentence a defendant for prior uncharged crimes). Thus, we conclude that this claim lacks merit. We note, however, that there does not appear to have been a legitimate purpose for the reading of that statement and caution the State against the use of such statements in the future.

Penny also contends that the district court erred by failing to make factual findings for each factor enumerated in NRS 193.165(1). See Mendoza-Lobos v. State, 125 Nev. ___, ___, 218 P.3d 501, 507 (2009). The State concedes this error. However, Penny did not object to the adequacy

of the district court's finding during sentencing and we conclude that he has failed to demonstrate that his substantial rights were affected. See Puckett v. United States, 556 U.S. ___, 129 S. Ct. 1423, 1428-29 (2009); Mendoza-Lobos, 125 Nev. at ___, 218 P.3d at 508.

Having concluded that no relief is warranted, we
ORDER the judgment of conviction AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Robert H. Perry, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk