

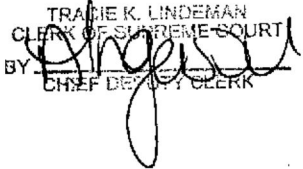
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DEMETRIUS EDWARD JOSEPH,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 67535

**FILED**

AUG 25 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY:   
CHIEF DEPUTY CLERK

*ORDER OF AFFIRMANCE*


This is an appeal of a judgment of conviction, pursuant to a guilty plea, of burglary. Eighth Judicial District Court, Clark County; Douglas Smith, Judge.


Appellant Demetrius Edward Joseph first argues his sentence is cruel and unusual. Joseph does not demonstrate the relevant sentencing statutes are unconstitutional or that his sentence is so disproportionate so “as to shock the conscience.” *See Blume v. State*, 112 Nev. 472, 475, 915 P.2d 282, 248 (1996) (internal quotation marks omitted). Moreover, Joseph’s sentence of two to ten years in prison falls within the parameters of the relevant statute. *See NRS 205.060(2)*.

Second, Joseph argues the presentence investigation report (PSI) was incorrect because it stated he had seven prior felonies when he only had six. Joseph did not request alterations to the PSI in the district court and thus, we review for plain error. *See Dieudonne v. State*, 127 Nev. 1, 4, 245 P.3d 1202, 1204-05 (2011); *see also Stockmeier v. State, Bd. of Parole Comm’rs*, 127 Nev. 243, 250, 255 P.3d 209, 214 (2011) (a defendant who contests information contained in a PSI “must promptly seek to correct any alleged inaccuracies”). Here, Joseph received the

sentence he stipulated to in the guilty plea agreement and he fails to demonstrate the information in the PSI regarding his prior felonies was based on impalpable or highly suspect evidence. *See Sasser v. State*, 130 Nev. \_\_\_, \_\_\_, 324 P.3d 1221, 1224 (2014). Therefore, Joseph fails to demonstrate that this alleged error affected his substantial rights. *See* NRS 178.602. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Douglas Smith, District Judge  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk