

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KAPENA KAINUI FARIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 86899-COA

FILED

APR 22 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Kapena Kainui Faris appeals from a judgment of conviction, entered pursuant to a guilty plea, of residential burglary. Eighth Judicial District Court, Clark County; Carli Lynn Kierny, Judge.

Faris argues the district court erred by sentencing him based upon an incorrect presentence investigation report (PSI). Faris contends the PSI should be corrected and he should be resentenced with a correct PSI that does not reflect that he had two prior prison “incarcerations” when he has only been in prison once.

We review issues related to correcting a PSI for an abuse of discretion. *See Blankenship v. State*, 132 Nev. 500, 506, 375 P.3d 407, 411 (2016). Generally, alleged factual inaccuracies in a PSI do not warrant relief if they do not impact the defendant’s sentence. *See Stockmeier v. State, Bd. of Parole Comm’rs*, 127 Nev. 243, 250 n.6, 255 P.3d 209, 214 n.6 (2011). However, a defendant may be entitled to relief where the factual inaccuracies are “materially prejudicial because of their potential effect on the defendant’s prison classification or parole eligibility.” *Id.* But, where the challenged information in the PSI was not based on palpable or highly suspect evidence, this court does not need to consider whether the


information could possibly materially prejudice a defendant's prison classification or his chances of being released on parole. *See Gomez v. State*, 130 Nev. 404, 408, 324 P.3d 1226, 1229 (2014).

Faris received the 30-to-120-month prison sentence he stipulated to as part of his plea agreement, and Faris does not argue the alleged factual inaccuracy impacted his sentence. Further, he does not argue that the alleged factual inaccuracy constitutes palpable or highly suspect evidence or that it is materially prejudicial to his prison classification or parole eligibility. Therefore, we conclude the district court did not abuse its discretion by failing to correct the PSI prior to sentence. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Carli Lynn Kierny, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk