

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ERIC ANTHONY HOFFMAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 88878-COA

FILED

APR 23 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Eric Anthony Hoffman appeals from a judgment of conviction, entered pursuant to a guilty plea, of owning or possessing a firearm by a prohibited person. Second Judicial District Court, Washoe County; Barry L. Breslow, Judge.

Hoffman argues the district court abused its discretion by denying his request to remove a prior felony burglary conviction from the presentence investigation report (PSI). Hoffman contends the inclusion of this conviction in the PSI amounted to palpable or highly suspect evidence that negatively affected his sentence. A defendant may object to factual or methodological errors in a PSI so long as he does so before sentencing. *Blankenship v. State*, 132 Nev. 500, 508, 375 P.3d 407, 412 (2016). “[A] PSI must not include information based on palpable or highly suspect evidence.” *Gomez v. State*, 130 Nev. 404, 407, 324 P.3d 1226, 1228 (2014) (internal quotation marks omitted). While “the process by which the district court must resolve objections to a PSI is not entirely clear,” *Stockmeier v. State, Bd. of Parole Comm’rs*, 127 Nev. 243, 250, 255 P.3d 209, 213 (2011), “the State does not have the burden of proof regarding the information in a defendant’s PSI,” *Gomez*, 130 Nev. at 407 n. 2, 324 P.3d

25-18088

at 1229 n. 2. A district court's decision whether to correct a PSI is reviewed for an abuse of discretion. *Id.* at 407, 324 P.3d at 1228-29.

During sentencing, Hoffman objected to a prior felony conviction listed in the PSI.¹ Hoffman's counsel argued he did not "know where this record [was] coming from," the conviction was not contained in a prior PSI, and he could not find proof of the conviction online. For these reasons, counsel argued he did not think the State could "prove it happened." The State responded that, in discovery, it had provided Hoffman with a copy of the burglary conviction in case number FSB1003056. Hoffman does not challenge this assertion on appeal. In addition, prior to sentencing, the State filed certified documents in support of its request for habitual criminal adjudication. Among these documents was a 2013 sentencing transcript in which Hoffman's then counsel represented that Hoffman had only been to prison once—despite having multiple prior felony convictions, including one for burglary—because the prison sentences were run concurrently. The PSI reflects no other felony burglary convictions at the time of the 2013 sentencing hearing other than the burglary conviction in case number FSB1003056. Finally, the PSI reflects that, during his interview with the Division of Parole and Probation, Hoffman "was apprised of his criminal history and agreed with its contents."

In light of these circumstances, we conclude the district court did not abuse its discretion in refusing to remove Hoffman's prior burglary conviction from the PSI as impalpable or highly suspect evidence. *Cf.*

¹The PSI reflects that Hoffman was convicted of felony burglary on August 31, 2010, in case number FSB1003056 out of San Bernadino, California. The PSI further reflects that Hoffman received a 24-month prison sentence, which was run concurrently with the sentences imposed for felony convictions in three other cases.

Goodson v. State, 98 Nev. 493, 496, 654 P.2d 1006, 1007 (1982) (holding that information in a PSI indicating the defendant was a drug trafficker was impalpable and highly suspect because it was merely a “bald assertion, unsupported by any evidence whatsoever”). Therefore, we conclude Hoffman is not entitled to relief based on this claim.

Hoffman also argues the district court abused its discretion by relying on impalpable or highly suspect evidence in sentencing him as a habitual criminal. Hoffman does not challenge the validity of the five prior felony convictions the district court relied on in determining he was eligible for habitual criminal treatment, which did not include the prior burglary conviction discussed above. Instead, Hoffman contends the district court improperly relied on the prior burglary conviction as part of Hoffman’s criminal history in deciding whether to adjudicate him a habitual criminal.


The district court has wide discretion in its sentencing decision. *See Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). Generally, this court will not interfere with a sentence imposed by the district court that falls within the parameters of relevant sentencing statutes “[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence.” *Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976); *see Cameron v. State*, 114 Nev. 1281, 1283, 968 P.2d 1169, 1171 (1998).


The 5-to-20-year prison sentence imposed is within the parameters provided by the relevant statute. *See* NRS 207.010(1)(a). And for the reasons discussed above, Hoffman fails to demonstrate the district court relied on impalpable or highly suspect evidence. Having considered

the sentence and the crime, we conclude the district court did not abuse its discretion in sentencing Hoffman. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Barry L. Breslow, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk