

IN THE SUPREME COURT OF THE STATE OF NEVADA

JERMAINE JUDGE PEREZ,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 56172

FILED

DEC 20 2011

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *Angus*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of robbery. Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge.

First, appellant Jermaine Judge Perez appears to contend that the district court erred at sentencing by relying on the presentence investigation (PSI) report because it did not contain information on several topics and therefore did not comply with the requirements of NRS 176.145. We disagree. The PSI addresses Perez's assets, income, and debts by relating that none were reported and there is no statutory requirement that the PSI include any of the remaining alleged deficiencies. See NRS 176.145. And Perez did not object to the absence of any of this information in the district court. Accordingly, he has failed to demonstrate that the district court plainly erred in this regard. See Mendoza-Lobos v. State, 125 Nev. \_\_\_, \_\_\_, 218 P.3d 501, 507 (2009) (utilizing plain-error standard to review an alleged error at sentencing in the absence of an objection).

Second, Perez contends that the district court erred by relying on the PSI because the offense synopsis contained therein relied on hearsay and did not contain any information directly from the victim. The

use of hearsay is not prohibited in PSIs, see Buschauer v. State, 106 Nev. 890, 894, 804 P.2d 1046, 1049 (1990), and NRS 176.145 does not require that information regarding the circumstances of the offense be obtained from the victim. Moreover, Perez did not object to these alleged deficiencies in the district court, and we conclude that he has failed to demonstrate plain error.

Third, Perez contends that the district court erred by relying on the PSI because it erroneously stated that he absconded from a prior parole. Perez noted this alleged error at sentencing but the district court did not make any express finding in this regard. To the extent the district court relied on any error, we conclude that no relief is warranted because Perez has not demonstrated that the district court relied solely on this information when imposing the sentence. See Denson v. State, 112 Nev. 489, 492, 915 P.2d 284, 286 (1996).

Finally, Perez contends that the district court violated its statutory duty to seriously consider his ability to complete a term of probation and failed to articulate that this duty was fulfilled. Perez cites no authority requiring the district court to articulate its compliance with any statutory duty. Further, the district court listened to the argument of defense counsel and Perez's statement in allocution, considered the PSI, and determined that based on the circumstance of the offense and Perez's record, probation was not appropriate. Accordingly, we conclude that Perez has failed to demonstrate any error.

We note that Perez's sentence of 60 to 180 months in prison is within the statutory limits, see NRS 200.380(2), and it is within the district court's discretion to grant or deny probation, see NRS

176A.100(1)(c). We conclude that the district court did not abuse its discretion at sentencing, and we

ORDER the judgment of conviction AFFIRMED.

Cherry, J.  
Cherry

Gibbons, J.  
Gibbons

Pickering, J.  
Pickering

cc: Hon. Linda Marie Bell, District Judge  
Bunin & Bunin  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk