

IN THE SUPREME COURT OF THE STATE OF NEVADA

LEVI GENE KIVI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 61225

FILED

MAR 14 2013

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of grand larceny. Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

Citing to Stockmeier v. State, Bd. of Parole Comm'rs, 127 Nev. \_\_\_, 255 P.3d 209 (2011), for support, appellant Levi Gene Kivi contends that the district court erred by denying his motion for an evidentiary hearing and failing to resolve an alleged factual inaccuracy in his presentence investigation report (PSI). Kivi specifically challenges the statement in the PSI indicating that he is a "confirmed member" of a "criminal street gang." We disagree with Kivi's contention.<sup>1</sup>

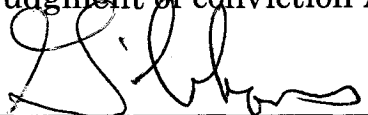
There is no statutory right to an evidentiary hearing on an alleged factual inaccuracy in a PSI and nothing in Stockmeier requires a district court to conduct one. Additionally, the district court did, in fact, resolve the dispute and determined there was sufficient information

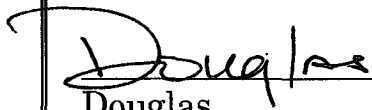
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<sup>1</sup>The district court sentenced Kivi to a suspended prison term of 12-36 months and imposed a 3-year probationary term. Kivi concedes that the sentence imposed by the district court "did not punish him for the alleged gang activity."

provided to support the statement in the PSI concerning Kivi's gang affiliation. Kivi fails to demonstrate that the district court erred and we conclude that he is not entitled to relief. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

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

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Saitta

cc: Hon. Kathleen E. Delaney, District Judge  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk