

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES AVAMPATO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 64688

**FILED**

JUN 11 2014

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *S. Young*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of attempted possession of a stolen motor vehicle. Second Judicial District Court, Washoe County; David A. Hardy, Judge.

Appellant James Avampato contends that the district court erred by denying his oral motion to strike the juvenile history included in his presentence investigation report and considered at sentencing. Avampato alternatively contends that “[e]ven if this Court concludes that juvenile records are appropriate for inclusion in a PSI, the Division [of Parole and Probation] violated governing statutory provisions in collecting this information” from the local probation office rather than from the juvenile court, *see* NRS 62H.030(1) (“The juvenile court shall make and keep records of all cases brought before the juvenile court.”). We disagree with Avampato’s assertions.<sup>1</sup>

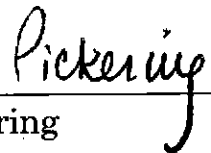
Pursuant to NRS 62H.030(3)(b), the Division may inspect juvenile records, which have not been sealed, in preparing a PSI, *see also* NRS 176.145(1)(b), (2), and a district court may consider a defendant’s

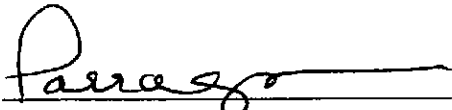
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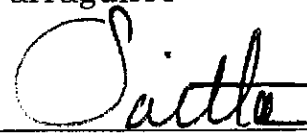
<sup>1</sup>Notably, Avampato does not challenge the veracity of the information contained in the PSI pertaining to his juvenile history.

juvenile record when making a sentencing determination, *see generally Thomas v. State*, 88 Nev. 382, 385, 498 P.2d 1314, 1316 (1972). Further, Chapter 62H, read in its entirety, does not limit the use and definition of "juvenile records" in the manner suggested by Avampato and it was not improper for the Division to rely on information provided by the local probation office in its preparation of his PSI. We conclude that the district court did not err by denying the request to strike the juvenile history section of Avampato's PSI and that he is not entitled to relief. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, J.  
Parraguirre

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

cc: Hon. David A. Hardy, District Judge  
Washoe County Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk