

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GISTARVE RUFFIN, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 66700

FILED

APR 14 2015

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of sale of a schedule one controlled substance. Second Judicial District Court, Washoe County; Lidia Stiglich, Judge.


First, appellant Gistarve Ruffin argues that the district court abused its discretion at sentencing by considering his previous convictions, because the filed judgments of convictions did not comply with NRS 176.105. We review a district court's sentencing decision for abuse of discretion. *See Chavez v. State*, 125 Nev. 328, 348, 213 P.3d 476, 490 (2009). Although a sentencing "court is privileged to consider facts and circumstances which clearly would not be admissible at trial," *Silks v. State*, 92 Nev. 91, 93-94, 545 P.2d 1159, 1161 (1976), we "will reverse a sentence if it is supported *solely* by impalpable and highly suspect evidence," *Denson v. State*, 112 Nev. 489, 492, 915 P.2d 284, 286 (1996).

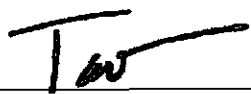
Here, Ruffin challenged the form of the filed judgments of convictions; not whether he actually had been convicted of those prior offenses. The district court properly considered Ruffin's criminal history when imposing sentence. *See id.* ("Possession of the fullest information possible concerning a defendant's life and characteristics is essential to the sentencing judge's task of determining the type and extent of

punishment”). Therefore, Ruffin fails to demonstrate that the district court abused its discretion when imposing Ruffin’s sentence.

Second, Ruffin argues that the district court erred in failing to amend the presentence investigation report (PSI) to reflect that the filed judgments of conviction for his prior convictions were infirm for failing to comply with NRS 176.105. Ruffin did not request alterations to the PSI below and thus, we review for plain error. See *Dieudonne v. State*, 127 Nev. ___, ___, 245 P.3d 1202, 1204-05 (2011). “A defendant’s ‘PSI must not include information based on impalpable or highly suspect evidence.’” See *Sasser v. State*, 130 Nev. ___, ___, 324 P.3d 1221, 1224 (2014) (quoting *Stockmeier v. State, Bd. of Parole Comm’rs*, 127 Nev. ___, ___, 255 P.3d 209, 213 (2011) (internal quotation marks omitted)). Here, Ruffin merely asserts that the filed judgments of convictions do not contain all of the information that is required by NRS 176.105. He does not allege that he did not have the prior convictions, and therefore, he has not demonstrated that the PSI improperly contained information related to those convictions. Accordingly, Ruffin fails to demonstrate that the PSI contained any errors regarding his prior convictions.

Having concluded that Ruffin is not entitled to relief, we
ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Lidia Stiglich, District Judge
Washoe County Alternate Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk