

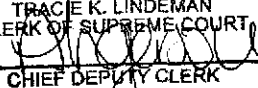
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SAMUEL MARCUS NEGRI, II,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 68627

**FILED**

FEB 17 2016

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
CHIEF DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of second-level trafficking in a controlled substance. Eleventh Judicial District Court, Mineral County; Kimberly A. Wanker, Judge.

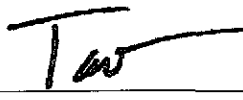
Appellant Samuel Marcus Negri, II, argues the district court abused its discretion when imposing sentence because the district court improperly stated Negri was discovered with “high-level amounts of drugs” and stated all of Negri’s prior criminal history involved drugs. Negri did not object to these statements in the district court, and thus, no relief would be warranted absent a demonstration of plain error. *See Dieudonne v. State*, 127 Nev. 1, 4, 245 P.3d 1202, 1204-05 (2011). 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). However, 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).

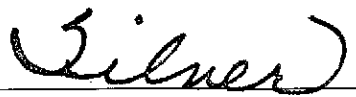
Our review of the record reveals Negri does not demonstrate plain error in this regard. Negri possessed 35.9 grams of methamphetamine, which was sufficient to sustain a conviction for third-

level trafficking in a controlled substance. See NRS 453.3385(1)(c). Accordingly, the district court was factually correct when it stated Negri was found with a high amount of drugs. In addition, Negri's presentence investigation report lists several incidents and convictions involving controlled substances, and accordingly, Negri does not demonstrate the district court's statement that all of his criminal history involved drugs affected his substantial rights. Negri's sentence of 72 to 180 months in prison falls within the parameters of the relevant statute. See NRS 453.3385(1)(b). Therefore, Negri does not demonstrate the district court's statements amounted to plain error affecting his substantial rights. See *Dieudonne*, 127 Nev. at 4, 245 P.3d at 1204-05. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

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

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Kimberly A. Wanker, District Judge  
David Kalo Neidert  
Attorney General/Carson City  
Mineral County District Attorney  
Mineral County Clerk