

IN THE SUPREME COURT OF THE STATE OF NEVADA

LEEANN OBIE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43602

FILED

JAN 07 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of two counts of grand larceny (counts I and II) and one count of exploitation of an older person (count III). Sixth Judicial District Court, Humboldt County; Richard Wagner, Judge. The district court sentenced appellant Leeann Obie to serve two consecutive prison terms of 23 to 58 months for counts I and II and a concurrent jail term of 12 months for count III. The district court then suspended execution of the sentences imposed for counts II and III and placed Obie on probation for a time period not to exceed 5 years. As a condition of probation, the district court ordered restitution "to the victim in the sum of \$60,682.000."

Citing to Martinez v. State,¹ Obie contends that the district court erred in ordering that restitution be paid to the bank because it was not a victim pursuant to NRS 176.033(1)(c). Specifically, Obie argues that

¹115 Nev. 9, 974 P.2d 133 (1999) (holding that an insurance company is not a victim pursuant to NRS 176.033(1)(c) and NRS 176.015(5) because the loss incurred is sustained as part of a contractual obligation and is neither unexpected nor involuntary).

a bank is like an insurance company because financial losses sustained due to bank fraud are voluntary and expected. We conclude that Obie's contention lacks merit.

Our holding in Martinez, which involved a restitution award imposed pursuant to NRS 176.033(1)(c),² is inapplicable to this case because, here, the district court ordered restitution as a condition of probation pursuant to NRS 176A.430. In construing NRS 176A.430, this court has recognized that “the legislature chose to accord broad authority to the district court judge to order restitution not only to ‘victims,’ but to any ‘person or persons named in the order.’”³ Also, the grant of restitution is a sentencing determination that will not be disturbed on appeal provided it does not rest upon impalpable or highly suspect evidence.⁴

In this case, because restitution was imposed as a condition of probation, we need not consider whether the bank was a victim under NRS 176.033(1)(c). Moreover, Obie does not allege that the restitution imposed was based on insufficient or impalpable evidence. Accordingly, we conclude that the district court did not err or abuse its discretion in ordering restitution.


²Id. at 11, 974 P.2d at 134.

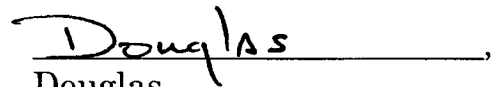
³Igbinovia v. State, 111 Nev. 699, 709, 895 P.2d 1304, 1310 (1995).

⁴See generally Martinez, 115 Nev. at 12-13, 974 P.2d at 135 (discussing restitution awarded under NRS 176.033).

Having considered Obie's contention and concluded that it lacks merit, we

ORDER the judgment of conviction AFFIRMED.

 J.
Maupin

 J.
Douglas

 J.
Parraguirre

cc: Hon. Richard Wagner, District Judge
State Public Defender/Carson City
State Public Defender/Winnemucca
Attorney General Brian Sandoval/Carson City
Humboldt County District Attorney
Humboldt County Clerk