

IN THE SUPREME COURT OF THE STATE OF NEVADA

BILLY DON CARROLL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44495

FILED

JUN 16 2005

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

ORDER AFFIRMING IN PART, VACATING IN PART
AND REMANDING

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of attempted destruction or injury to property. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge. The district court sentenced appellant to a prison term of 12 to 32 months and ordered appellant to pay restitution in the amount of \$5,000.00.

Appellant's sole contention on appeal is that the award of restitution has no basis in the record. The State concedes that the basis for the restitution award is unclear. We agree.

Restitution under NRS 176.033(1)(c) is a sentencing determination.¹ On appeal, this court generally will not disturb a district court's sentencing determination so long as it does not rest upon impalpable or highly suspect evidence.² Although the district court is allowed to consider a wide variety of information in matters of sentencing,


¹See Martinez v. State, 115 Nev. 9, 974 P.2d 133 (1999).

²See Lloyd v. State, 94 Nev. 167, 576 P.2d 740 (1978).

an award of restitution must be based on reliable and accurate information.³

In the instant case, the district judge opined that \$5,000.00 was the appropriate amount of restitution, and went on to state, "You can't believe how much it costs to put out these little mini forest fires that you tried to light." We are unable to determine the basis for the district court's award of restitution based on the record before us. We therefore vacate the order of restitution and direct the district court to determine the proper amount of restitution in accordance with the foregoing. Accordingly, we

ORDER the judgment of conviction AFFIRMED IN PART AND VACATED IN PART AND REMAND this matter to the district court for proceedings consistent with this order.


_____, J.
Rose


_____, J.
Gibbons


_____, J.
Hardesty

³See Martinez, 115 Nev. at 13, 974 P.2d at 135.

cc: Hon. Steven R. Kosach, District Judge
Washoe County Public Defender
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk