

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT JEREMY CHIATOVICH,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 44968

**FILED**

OCT 21 2005

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of possession of a stolen motor vehicle. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge. The district court sentenced appellant Robert Jeremy Chiatovich to serve a prison term of 12-32 months and ordered him to pay \$4,263.94 in restitution.

Chiatovich's sole contention on appeal is that the district court abused its discretion in its determination of the restitution award. Chiatovich claims that the restitution award was not supported by "adequate" evidence and is "greater than . . . the actual loss; and . . . the value of the vehicle." We disagree with Chiatovich's contention.

Restitution is a sentencing determination.<sup>1</sup> "[A] defendant may be ordered to pay restitution only for an offense that he has admitted, upon which he has been found guilty, or upon which he has agreed to pay

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<sup>1</sup>See Martinez v. State, 115 Nev. 9, 12, 974 P.2d 133, 135 (1999).

restitution.”<sup>2</sup> A district court retains the discretion “to consider a wide, largely unlimited variety of information to insure that the punishment fits not only the crime, but also the individual defendant.”<sup>3</sup> A district court, however, must rely on reliable and accurate information in calculating a restitution award.<sup>4</sup> Absent an abuse of discretion, “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.”<sup>5</sup>

Our review of the record on appeal reveals that the district court did not abuse its discretion in its determination of the restitution award. The district court set the amount of restitution based on the presentence investigation report and recommendation of the Division of Parole and Probation. Additionally, we note that Chiatovich was adequately advised at the plea canvass by the district court and received sufficient notice of the restitution obligation by virtue of the fact that the written guilty plea agreement, signed by Chiatovich, explicitly informed him that, if appropriate, he would be ordered to pay restitution.<sup>6</sup> Further,

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<sup>2</sup>Erickson v. State, 107 Nev. 864, 866, 821 P.2d 1042, 1043 (1991); see also NRS 176.033(1)(c) (“If a sentence of imprisonment is required or permitted by statute, the court shall: . . . [i]f restitution is appropriate, set an amount of restitution for each victim of the offense.”).

<sup>3</sup>Martinez v. State, 114 Nev. 735, 738, 961 P.2d 143, 145 (1998).

<sup>4</sup>Martinez, 115 Nev. at 13, 974 P.2d at 135.

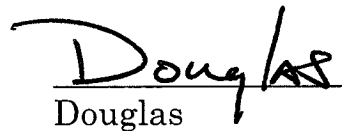
<sup>5</sup>Id. at 12-13, 974 P.2d at 135.

<sup>6</sup>See Lee v. State, 115 Nev. 207, 985 P.2d 164 (1999).

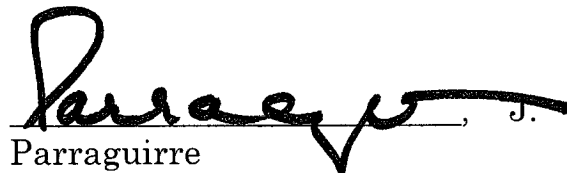
Chiatovich has failed to demonstrate that the district court relied on impalpable or highly suspect evidence in setting the award.

Therefore, having considered Chiatovich's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.

 \_\_\_\_\_, J.  
Douglas

 \_\_\_\_\_, J.  
Rose

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

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