

IN THE SUPREME COURT OF THE STATE OF NEVADA

HERNAN EDILBERTO ERAZO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46403

FILED

MAY 02 2006

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of two counts of attempted sexual assault of a minor under the age of 16. Eighth Judicial District Court, Clark County; Joseph T. Bonaventure, Judge. Appellant Hernan Erazo was sentenced to a prison term of 60-240 months on each count, to be served concurrently.

Erazo raises two issues on appeal. First, he asserts that the district court erred by awarding restitution that was ultimately payable to county agencies. We disagree.

The state agencies involved in the instant case are "victims" for two reasons. First, the agencies qualify under the reasoning set forth in Igbinovia v. State¹ in that the harm or loss suffered was "unexpected and occurs without the voluntary participation of the agencies suffering

¹111 Nev. 699, 706, 895 P.2d 1304, 1308 (1995).

harm or loss."² Second, the money spent by the agencies benefited the child in the case, the true "victim" of Erazo's criminal conduct.

Here, the expenditures were not voluntary, and occurred only because of Erazo's criminal conduct and the victim's indigency. The restitution was for counseling and medical services provided by Clark County Social Services and the Victim Witness Assistance Center. The expenditures were not related to investigative work or in securing evidence against Erazo.³

Second, Erazo contends that the restitution awarded constitutes a conflict of interest in violation of SCR 158(10). Erazo claims the district attorney's office cooperated with the Division of Parole and Probation because the district attorney's office had an impermissible monetary interest in Erazo's case. Such a claim is unproven and unsubstantiated regarding how the district attorney's office obtained a property interest in the reimbursement to CCSS and VWAC.⁴

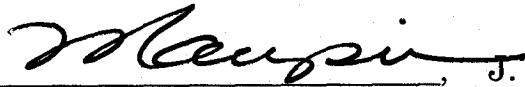
²Roe v. State, 112 Nev. 733, 735, 917 P.2d 959, 960 (1996)(quoting Igbinovia, 111 Nev. at 706, 895 P.3d at 1308).

³Igbinovia determined that restitution was not appropriate for drug buy money, but Erazo's case is factually distinguishable. "The rule announced in Igbinovia is a narrow one, tailored specifically to cases where law enforcement agencies have expended money to conduct undercover drug buys. Whether the state or a state agency is a victim for purposes of restitution will depend on the facts of each case." Roe, 112 Nev. at 735, 917 P.2d at 960.

⁴We conclude appellant has failed to present a cogent argument, and we decline to consider the contention. See Maresca v. State, 103 Nev. 669,
continued on next page . . .

In sum, we conclude that in the instant case, an order of restitution is appropriate, even though that restitution will be paid to state agencies. Therefore, we

ORDER the judgment of conviction AFFIRMED.

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

cc: Hon. Joseph T. Bonaventure, District Judge
Clark County Public Defender Philip J. Kohn
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

... continued

673, 748 P.2d 3, 6 (1987) ("It is appellant's responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court.").