

IN THE SUPREME COURT OF THE STATE OF NEVADA

PATRIC GERALD JONES,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 46828

**FILED**

MAY 24 2006

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
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 embezzlement. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge. The district court sentenced appellant Patric Jones to a prison term of 12 to 48 months, and ordered Jones to pay restitution in the amount of \$145,365.85. The district court suspended the sentence and placed Jones on probation for a period not to exceed 60 months.

Jones' sole contention on appeal is that the award of restitution is based on highly suspect or impalpable evidence. On May 1, 2006, the State filed a confession of error.

Restitution under NRS 176.033(1)(c) is a sentencing determination.<sup>1</sup> 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.<sup>2</sup> Although the district court is allowed to consider a wide variety of information in matters of sentencing,

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


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

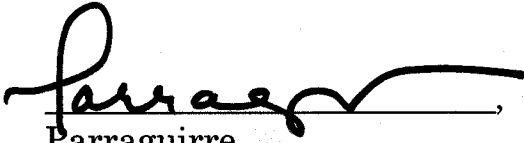
an award of restitution must be based on reliable and accurate information.<sup>3</sup>

In the instant case, when Jones entered his plea, the State indicated that the amount of restitution would be approximately \$38,000. At sentencing, representatives of the company that was the victim in this case testified that restitution far exceeded that amount. The representatives, however, failed to provide documentation of losses or the identification of other victims, such as credit card companies. We conclude that the award of restitution is not adequately supported by the record. 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.  
Douglas

  
\_\_\_\_\_, J.  
Becker

  
\_\_\_\_\_, J.  
Farraguirre

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<sup>3</sup>See Martinez, 115 Nev. at 13, 974 P.2d at 135.

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