

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID THERIAULT A/K/A DAVID W.
THERIAULT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48644

FILED

APR 06 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of possession of a stolen vehicle. Eighth Judicial District Court, Clark County; Valerie Adair, Judge. The district court sentenced appellant David Theriault to a prison term of 12 to 36 months, but suspended execution of the sentence and placed him on probation for a time period not to exceed 3 years. As a condition of probation, the district court ordered Theriault to pay \$5,431.00 in restitution.

Theriault contends that the district court erred in imposing restitution. Specifically, Theriault argues that the district court ordered restitution for an uncharged offense, and there was insufficient evidence in support of the total amount of restitution ordered. We disagree.

NRS 176A.430(1) authorizes restitution as a condition of probation "in appropriate circumstances." This court has held that the district court has broad discretionary powers to impose restitution as a condition of probation.¹ The grant of restitution is a sentencing

¹Igbinovia v. State, 111 Nev. 699, 707-11, 895 P.2d 1304, 1309-11 (1995).

determination that will not be disturbed on appeal provided it does not rest upon impalpable or highly suspect evidence.²

We conclude that the district court acted within its broad discretion in imposing \$5,431.00 in restitution as a condition of probation. The amount of restitution was supported by sufficient evidence and did not exceed the victim's losses arising from the charged crime. Accordingly, Theriault failed to show that the district court erred in its determination of restitution.

Having considered Theriault's contentions and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.

Parraguirre, J.
Parraguirre

Hardesty, J.
Hardesty

Douglas, J.
Douglas

cc: Hon. Valerie Adair, District Judge
Clark County Public Defender Philip J. Kohn
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

²See generally Martinez v. State, 115 Nev. 9, 12-13, 974 P.2d 133, 135 (1999).