

IN THE SUPREME COURT OF THE STATE OF NEVADA

TIFFANY MAE THOMAS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 49799

**FILED**

NOV 16 2007

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of attempted possession of a stolen motor vehicle. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge. The district court sentenced appellant Tiffany Mae Thomas to serve a prison term of 12-32 months and ordered her to pay \$3,850 in restitution.

Thomas' sole contention is that the district court abused its discretion in its determination of the restitution award. Specifically, Thomas objects to the portion of the restitution award equal to the victim's estimation of the value of the items taken from the vehicle, approximately \$3,000, because "[s]he did not plead guilty to stealing anything." Thomas claims that she should only be required to pay the restitution amount, \$850, supported by receipts. We disagree.

"[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 restitution."<sup>1</sup> A district court retains the

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<sup>1</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  
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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>2</sup> A district court, however, must rely on reliable and accurate information in calculating a restitution award.<sup>3</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>4</sup>

We conclude that the State provided a sufficient basis to support the restitution award. At the sentencing hearing, the victim was present and made an impact statement. A representative from the Division of Parole and Probation informed the district court that the victim provided P & P with receipts documenting \$850 in losses as a result of her vehicle being taken,<sup>5</sup> and that an additional \$3,000 was requested for the loss of personal property taken from the vehicle including “an Ipod, a purse, a wallet, two cases of years of collecting CDs estimated at \$15 per CD. And she had plus or minus 200 CDs in there.” The representative

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*... continued*

permitted by statute, the court shall: . . . [i]f restitution is appropriate, set an amount of restitution for each victim of the offense.”).

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

<sup>3</sup>See Martinez v. State, 115 Nev. 9, 13, 974 P.2d 133, 135 (1999).

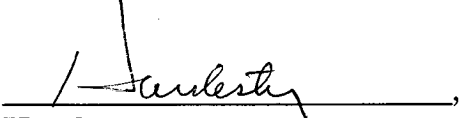
<sup>4</sup>Id. at 12-13, 974 P.2d at 135.

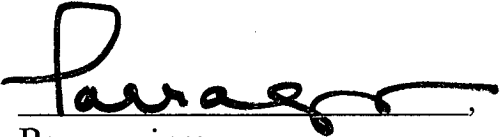
<sup>5</sup>The victim provided receipts indicating that her out-of-pocket expenses included \$350 for replacement tires and \$500 towards her insurance deductible.

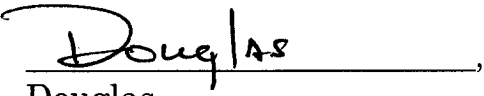
stated, "Obviously we don't have receipts for those." Thomas objected to the additional \$3,000 request, but did not seek to cross-examine the victim, despite her availability. Additionally, the formal guilty plea agreement, signed by Thomas, stated that she would "make full restitution in this matter, as determined by the Court." Therefore, we conclude from these facts that the district court did not abuse its discretion in its determination of the restitution award.

Having considered Thomas' contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.<sup>6</sup>

  
\_\_\_\_\_, J.  
Hardesty

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

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

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<sup>6</sup>The State, for the first time, contends that the victim was entitled to restitution for the full amount of the damage to the vehicle, and therefore, asks this court to remand the matter back to the district court for a hearing to reconsider its restitution determination. We decline to consider the State's argument at this time; this issue must be raised in the district court in the first instance.

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