

IN THE SUPREME COURT OF THE STATE OF NEVADA

PETER DUSTIN RHODES,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 50022

**FILED**

JAN 04 2008

ORDER OF AFFIRMANCE

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of one count of attempt to obtain the personal identification information of another. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge. The district court sentenced appellant Peter Dustin Rhodes to serve a prison term of 16 to 72 months, suspended the execution of the sentence, and placed Rhodes on probation for a period not to exceed 36 months. As a condition of probation, the district court ordered Rhodes to pay restitution totaling \$11,150.90.

Citing to Erickson v. State,<sup>1</sup> Rhodes contends that the district court erred in imposing restitution for losses the victim sustained as a result of a burglary. Rhodes claims that he has not admitted to or been convicted of the burglary and that he did not receive any notice in the charging document, guilty plea memorandum, or oral plea canvass that he would be subject to restitution relating to the burglary. And Rhodes argues that it "is manifestly unjust to punish him for a charge to which he

---

<sup>1</sup>107 Nev. 864, 821 P.2d 1042 (1991).

has not plead[ed], or been adjudicated, guilty." We conclude that Rhodes' contention lacks merit.

Here, the district court imposed restitution as a condition of probation, whereas in Erickson the district court imposed restitution as part of the sentence.<sup>2</sup> NRS 176A.400(1)(a) authorizes the district court to impose restitution as a condition of probation, and we have held that the "[d]iscretionary powers of the district court accorded by a statutory grant of authority must be interpreted liberally."<sup>3</sup> NRS 176.033(1)(c) authorizes the district court to "set an amount of restitution for each victim of that offense" when sentencing defendants convicted of offenses punishable by imprisonment. In Erickson, we held that a defendant may be ordered to pay restitution pursuant to NRS 176.033 only for offenses which he has admitted, upon which he has been found guilty, or upon which he has agreed to pay restitution.<sup>4</sup>

Even assuming that our holding in Erickson applies to restitution imposed as a condition of probation, we conclude that Rhodes is not entitled to relief. During Rhodes' sentencing hearing, the victim

---

<sup>2</sup>See id.

<sup>3</sup>Igbinovia v. State, 111 Nev. 699, 710, 895 P.2d 1304, 1311 (1995); see also Miller v. State, 113 Nev. 722, 725, 941 P.2d 456, 458 (1997) (noting that "[t]he legislature must authorize judicial power to impose conditions on probation, but given such a grant, a district court enjoys wide discretion to impose such conditions"); Creps v. State, 94 Nev. 351, 360, 581 P.2d 842, 848 (1978) (observing that "the particularly ameliorative nature of probation statutes compels a liberal interpretation of the discretionary powers conferred on the district courts").

<sup>4</sup>107 Nev. at 866, 821 P.2d at 1043.

testified that she was Rhodes' former mother-in-law, her daughter knew that she was going on vacation, and her home was burglarized while she was on vacation. The victim also testified that Rhodes had access to her home, a cigarette similar to those smoked by Rhodes was found in her home, she had prepared an itemized list of the things taken from her home, and her insurance company assigned values to the items on the list. The list was admitted into evidence.

The State noted that Rhodes told detectives that his drug dealer was responsible for the burglary, and it argued that Rhodes should be held responsible for the restitution arising from the burglary. Rhodes' attorney observed that the victim's daughter also knew the person that Rhodes named as the burglar and had access to the victim's home. She argued that "it would not be fair for [Rhodes] to be held completely accountable for the burglary, when there was other evidence to suggest that someone else could have committed [the crime]."

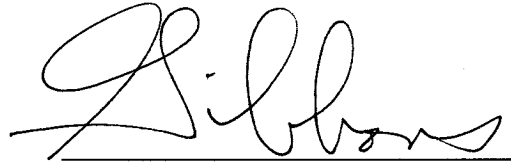
After hearing the victim's testimony and counsels' arguments, and before the district court rendered its sentencing decision, Rhodes stated

But I really didn't have anything to do with this burglary. If she feels that I had something to do with it, I'm sorry. I'm sorry that she suffered that loss, I would never have done anything like that to her. We don't get along, but I have respect for her and her daughter, both of them. Her oldest daughter is the mother of my children, and we're trying our very best to work out our problems. And I'm very much responsible for this power bill, and I did pawn her cameras that I got from somebody else, who apparently is the one who burglarized her home. But I'll make any restitution that you feel is necessary.

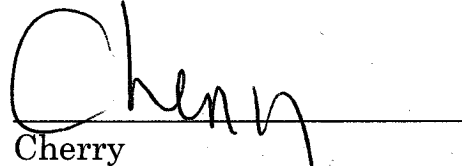
(Emphasis added.)

Under these circumstances, we conclude that Rhodes agreed to pay the restitution and that he has failed to demonstrate that the district court abused its broad discretion by imposing restitution for the burglary as a condition of probation. Accordingly, we

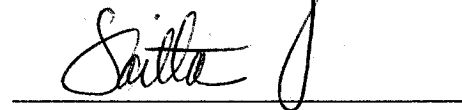
ORDER the judgment of conviction AFFIRMED.

 J.

Gibbons

 J.

Cherry

 J.

Saitta

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