

IN THE SUPREME COURT OF THE STATE OF NEVADA

LOLITA ROLDAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50054

FILED

DEC 10 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
J. Bloom
DEPUTY CLERK

ORDER AFFIRMING IN PART, VACATING IN PART AND
REMANDING

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of one count of willfully endangering a child as a result of neglect. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge. The district court sentenced appellant Lolita Roldan to serve 12 months in the county jail and ordered her to pay \$13,610.32 in restitution.

Roldan contends that the district court abused its discretion by ordering payment of restitution without establishing a sufficient basis for the restitution amount. Roldan notes that the Division of Parole and Probation recommended the restitution amount in its presentence investigation report. At sentencing, Roldan objected to the restitution order because she had an open Child Protective Services case pending in family court and the family court could best address the issue of restitution. The State urged the district court to continue sentencing until the Division was able to provide documentation as to why Roldan should pay restitution. And the district court ordered restitution based on the presentence investigation report and its belief that "[w]e can always adjust

the restitution down. I can never adjust the restitution up. So that's why the 13,000 bucks is there, paying for those wonderful children."

If a sentence of imprisonment is required or permitted by statute and restitution is appropriate, the district court must set an amount of restitution for each victim of the offense.¹ A district court can properly order a defendant to pay restitution to state agencies for money expended on behalf of child neglect victims.² A district court retains the 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."³ However, the district court must rely on reliable and accurate information in calculating restitution.⁴

Here, the district court based its restitution order solely on the Division of Parole and Probation's unsupported restitution recommendation. We conclude that the presentence investigation report, with nothing more, was not a reasonable basis for calculating restitution. Therefore, the restitution order must be vacated and the case remanded to the district court for hearing to determine the proper amount of restitution. Accordingly, we


¹NRS 176.033(1)(c).

²Roe v. State, 112 Nev. 733, 735, 917 P.2d 959, 960 (1996).

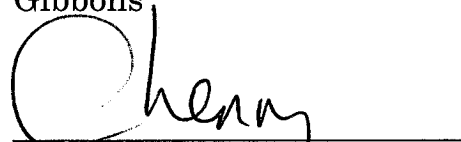
³Martinez v. State, 114 Nev. 735, 738, 961 P.2d 143, 145 (1998).

⁴Martinez v. State, 115 Nev. 9, 13, 974 P.2d 133, 135 (1999).

ORDER the judgment of the district court AFFIRMED IN PART AND VACATED IN PART AND REMAND this matter to the district court for proceedings consistent with this order.

 J.

Gibbons

 J.

Cherry

 J.

Saitta

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