

IN THE SUPREME COURT OF THE STATE OF NEVADA

KAREN LEANN SPINKS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 51575

FILED

JAN 08 2009

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of conspiracy to commit reckless driving (count I) and driving under the influence (count II). Eighth Judicial District Court, Clark County; David B. Barker, Judge. The district court sentenced appellant Karen Leann Spinks to 12 months in jail, suspended execution of the sentence, and placed her on probation for an indeterminate period not to exceed 3 years for count I, and to a concurrent jail term of 48 hours for count II. The district court ordered Spinks to pay \$16,040.49 in restitution.

Spinks contends that the district court abused its discretion in its determination of the restitution award. Specifically, Spinks objects to the portion of the restitution award ordered to pay "for aggravation of existing conditions without medical evidence to support that finding." A large percentage of the amount requested by the State was based on expenses related to the victim's pre-existing heart condition which, it was argued, was exacerbated by the accident.

"[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.”¹ 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.”² A district court, however, must rely on reliable and accurate information in calculating a restitution award.³ 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.”⁴

We conclude that the State provided a sufficient basis to support the restitution award. The matter of restitution was addressed at Spinks’ sentencing hearing and at two subsequent restitution hearings. At the final restitution hearing, the State argued that the victim was entitled to reimbursement for his out-of-pocket expenses, totaling \$16,040.49, based on the victim’s testimony at the hearings, an expense report prepared by the victim, and “what appears to be every bill he’s received that substantiates those numbers.” After considering the arguments of counsel and further testimony by the victim, the district court awarded the full amount requested and stated, “I’m basing this decision on what I believe to be attributable injuries sustained by the

¹Erickson 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 permitted by statute, the court shall: . . . [i]f restitution is appropriate, set an amount of restitution for each victim of the offense.”).

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

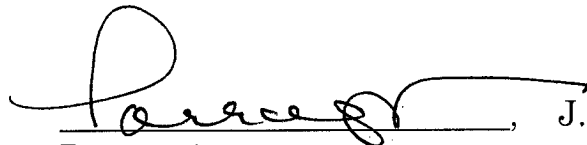
³See Martinez v. State, 115 Nev. 9, 13, 974 P.2d 133, 135 (1999).


⁴Id. at 12-13, 974 P.2d at 135.

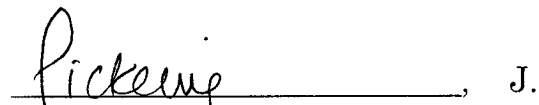
victim at the time or shortly thereafter.” Therefore, we conclude from these facts that the district court did not abuse its discretion in its determination of the restitution award.

Having considered Spinks’ contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.


Parraguirre, J.


Douglas, J.


Pickering, J.

cc: Hon. David B. Barker, District Judge
Sciscento & Associates, LLC
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk