

IN THE SUPREME COURT OF THE STATE OF NEVADA

STACEY LOFTUS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56982

FILED

MAR 17 2011

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


ORDER AFFIRMING IN PART, VACATING IN PART AND
REMANDING

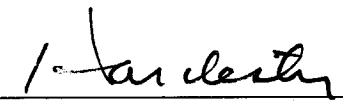
This is an appeal from a judgment of conviction, pursuant to a guilty plea, of willfully endangering a child as the result of child abuse. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

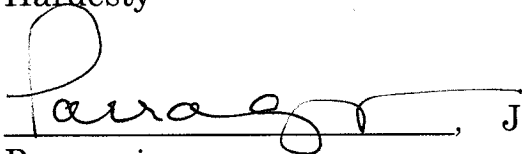
Appellant Stacey Loftus contends that the district court abused its discretion in its determination of the restitution award. We agree. A district court must rely on reliable and accurate information in calculating a restitution award and its determination will not be disturbed absent an abuse of discretion. See Martinez v. State, 115 Nev. 9, 12-13, 974 P.2d 133, 135 (1999); Randell v. State, 109 Nev. 5, 8, 846 P.2d 278, 280 (1993); see also NRS 176.033(1)(c). Here, Loftus objected during the sentencing hearing and argued that the district court did not have “enough legally competent evidence” to support the \$30,872.90 restitution award. Our review of the record reveals that no evidence, testimony, or documentation was provided at sentencing in support of the Division of Parole and Probation’s restitution recommendation other than a conclusory statement in the presentence investigation report that it cost Washoe County Social Services \$30,872.90 to care for Loftus’ children

after her arrest. As a result, the State failed to provide a sufficient factual basis in support of the Division's recommendation. Therefore, we conclude that the district court abused its discretion by awarding restitution without sufficient evidence, see *Martinez*, 115 Nev. at 12-13, 974 P.2d at 135, and we vacate the restitution award and remand the matter to the district court with instructions to conduct a restitution hearing. Accordingly, we

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


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Brent T. Adams, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk