

IN THE SUPREME COURT OF THE STATE OF NEVADA

TIG ANN SANTOS A/K/A TIG ANN
RUDOLPH,
Appellants,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59818

FILED

JUL 27 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Inge*
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 attempted grand larceny. Eighth Judicial District Court, Clark County; Valorie J. Vega, Judge.

Appellant Tig Ann Santos cleaned the victim's home. The victim accused Santos of stealing jewelry, gift cards, a camera, and several AT&T bonds. Santos denied the thefts and the victim searched Santos' car and found the gift cards. After being caught, Santos admitted that she had pawned the jewelry. She raises two issues on appeal.


First, Santos argues that the district court abused its discretion because her prison sentence was disproportionate to her crime. See Nev. Const. art. 1, § 6. This court will not disturb a district court's sentencing determination absent an abuse of discretion. Chavez v. State, 125 Nev. 328, 348, 213 P.3d 476, 490 (2009). Santos has not alleged that the district court relied solely on impalpable or highly suspect evidence or that the sentencing statutes are unconstitutional. See id. And her 12-to-32-month prison term falls within the parameters provided by the relevant statutes, see NRS 205.220; NRS 205.222(2); NRS 193.330, and

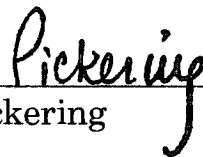
the sentence is not “so unreasonably disproportionate to the offense[s] as to shock the conscience,” Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979), cited approvingly in Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996). We conclude that the district court did not abuse its discretion by sentencing Santos to a prison term.


Second, Santos contends that the district court abused its discretion in its determination of the restitution award and by denying her request for a restitution hearing. Specifically, she argues that the restitution award improperly reimburses the victim for losses she did not admit to, was convicted of, or agreed to pay. 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).

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.” Erickson v. State, 107 Nev. 864, 866, 821 P.2d 1042, 1043 (1991). Here, Santos admitted that she stole several items from the victim but contested the inclusion of the bonds and camera in the restitution award. Although the guilty plea agreement states that she agreed to pay restitution for “any related offense which is being dismissed or not prosecuted pursuant to this agreement,” there is no indication in the record that she admitted to or agreed to pay for these losses as part of the plea negotiation. Nevertheless, the restitution awarded by the district court reimburses the victim for all of her reported losses. Accordingly, we

ORDER the judgment of conviction AFFIRMED IN PART AND VACATED IN PART AND REMAND this matter to the district court for a hearing to determine if the plea agreement contemplated the restitution award to include the contested items.


_____, J.
Saitta


_____, J.
Pickering


_____, J.
Hardesty

cc: Hon. Valorie J. Vega, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk