

IN THE SUPREME COURT OF THE STATE OF NEVADA

GLENN DAVID ELDER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 61403

FILED

APR 09 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY A. Malone
DEPUTY CLERK

ORDER AFFIRMING IN PART AND REVERSING IN PART

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of burglary. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

Appellant Glenn David Elder claims that the district court abused its discretion by imposing restitution for an offense he did not admit to, was not found guilty of, and for which he did not agree to pay. Respondent concedes the error. We conclude that the district court committed plain error, see Grey v. State, 124 Nev. 110, 123, 178 P.3d 154, 163 (2008) (unpreserved sentencing error is reviewed for plain error), and abused its discretion by ordering Elder to pay restitution in the amount of \$870, see Erickson v State, 107 Nev. 864, 866, 821 P.2d 1042, 1043 (1991), therefore, we

ORDER the judgment of conviction AFFIRMED IN PART and we REVERSED IN PART.

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Cherry, J.
Cherry

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