

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN A. GONZALES,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 35780

**FILED**

JUL 28 2000

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of battery with substantial bodily harm. The district court sentenced appellant to 13-60 months in prison, and ordered him to pay \$60,994.30 in restitution. The district court suspended the sentence and placed appellant on probation for a period not to exceed 3 years.

First, appellant contends the district court violated his right to due process<sup>1</sup> at sentencing by not making a determination as to whether restitution was impracticable pursuant to NRS 176A.430.<sup>2</sup> We disagree.

At sentencing, appellant asserted that he could not pay all of the restitution indicated in the pre-sentence report due to his child support obligations. The district court rejected appellant's argument, and ordered appellant to pay restitution in monthly amounts to be determined by the Division of Parole and Probation. In so ordering, the district court implicitly found that restitution was not impracticable. Moreover, we note that the district court was

<sup>1</sup>See U.S. Const. amend. XIV, § 1; Nev. Const. art. 1, § 8.

<sup>2</sup>NRS 176A.430(1) provides, in part, that the district court may order restitution "unless the court finds that restitution is impracticable."

not required to consider appellant's ability to pay in determining whether to impose restitution. See generally *Martinez v. State*, 115 Nev. 9, 13, 974 P.2d 133, 135 (1999).<sup>3</sup> Accordingly, we conclude that appellant's due process rights were not violated.

Next, appellant contends the district court abused its discretion, and violated his right to due process right, by failing to order specific amounts of restitution to be paid to specific victims. We disagree.

The legislature has granted district courts broad authority to impose conditions of probation and this court will construe that statutory grant of authority liberally. *Igbinovia v. State*, 111 Nev. 699, 710, 895 P.2d 1304, 1311 (1995); see also NRS 176A.100; NRS 176A.400. Regarding the imposition of restitution as a condition of probation, NRS 176A.430(1) provides:

The court shall order as a condition of probation or suspension of sentence, in appropriate circumstances, that the defendant make full or partial restitution to the person or persons named in the order, at the times and in the amounts specified in the order unless the court finds that restitution is impracticable. Such an order may require payment for medical . . . treatment of any person whom the defendant has injured.

Here, the district court ordered appellant to pay restitution in the specific amount of \$60,994.30, which represented the unpaid medical bills of the three victims. The presentence report clearly provided the specific amounts due to specific victims. Moreover, appellant failed to object at sentencing to the specificity, or lack thereof, of the

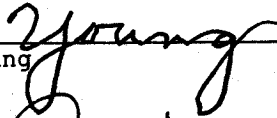
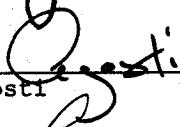
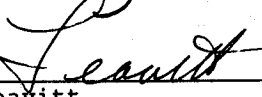
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<sup>3</sup>In *Martinez*, this court determined that, pursuant to a restitution order based on NRS 176.033, the district court is not required to consider the defendant's ability to pay. *Id.* We see no difference, regarding this aspect, between NRS 176.033 and NRS 176A.430.

restitution order. Therefore, we conclude his failure to object constitutes a waiver of this error. See Martinez, 115 Nev. at 12, 974 P.2d at 135.

Having considered both of appellant's contentions and concluded that they are without merit, we

ORDER this appeal dismissed.

Young		J.
Agosti		J.
Leavitt		J.

cc: Hon. Mark W. Gibbons, District Judge  
Attorney General  
Clark County District Attorney  
Clark County Public Defender  
Clark County Clerk