

IN THE SUPREME COURT OF THE STATE OF NEVADA

WALTER LEE HURST,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 37595

FILED

JUN 12 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF REMAND

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of burglary. The district court sentenced appellant to a prison term of 28 to 72 months, and ordered appellant to pay restitution in the amount of \$25,266.15.

Appellant contends that the district court erred by imposing restitution for damage that was done to the victim's mobile home apparently as a result of vandalism and arson. This court has held that "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

In the instant case, appellant was originally charged with burglary and either stealing or possessing a shotgun and pistol belonging to the victim. In exchange for his plea, the State dropped the charges of larceny or possession of stolen property.

In the guilty plea agreement, appellant admitted that he committed burglary by entering the mobile home with the intent to commit larceny. Appellant agreed to pay restitution for the burglary and for "any related offense

¹Erickson v. State, 107 Nev. 864, 866, 821 P.2d 1042, 1043 (1991).

which is being dismissed or not prosecuted pursuant to this agreement." We note that appellant was never charged with the vandalism of the mobile home. We conclude that the district court erred by ordering appellant to pay restitution beyond that for the actual burglary and the theft of the guns. We therefore vacate the order of restitution and direct the district court to determine the proper amount of restitution in accordance with the foregoing. 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.

Young, J.
Young

Leavitt, J.
Leavitt

Becker, J.
Becker

cc: Hon. J. Michael Memeo, District Judge
Attorney General
Elko County District Attorney
Elko County Public Defender
Elko County Clerk