

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARIA ROSA MENENDEZ
BETANCOURT A/K/A MARIA MENDEZ
BETANCOURT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 91354-COA

FILED

MAR 19 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

*ORDER AFFIRMING IN PART, VACATING IN PART AND
REMANDING*

Maria Rosa Menendez Betancourt appeals from a judgment of conviction, entered pursuant to a guilty plea, of possession of stolen property. Eighth Judicial District Court, Clark County; Crystal Eller, Judge.

Menendez Betancourt argues the district court abused its discretion by imposing restitution. Menendez Betancourt was accused of entering hotel rooms and taking jewelry, cash, and cashier checks.¹ At the initial sentencing hearing, the State requested additional time to gather supporting documents for its restitution request. The district court gave the State a two-week continuance. Shortly thereafter, the State provided the defense with an impact statement from one of the victims (J.P.) prepared shortly before sentencing, which included a spreadsheet listing the jewelry J.P. was missing and screenshots of the replacement cost for the

¹We note the State did not seek restitution for some of the cash and the cashier checks because the victim associated with that property failed to provide any supporting documentation regarding the missing property.

jewelry online. J.P. wrote that the jewelry had mostly been gifts given to her, or had been purchased, over the last 20 years. The jewelry totaled \$31,780. Another victim (C.C.), through a statement written by her husband shortly after the theft, stated that a Wells Fargo bag containing cash that totaled \$8,250 had been taken from her suitcase. Menendez Betancourt argued that the State had not presented competent evidence to support the imposition of restitution. Thus, Menendez Betancourt requested that no restitution be imposed in this case.²

“We review a district court’s restitution determination for an abuse of discretion.” *Gee v. State*, 140 Nev., Adv. Op. 16, 545 P.3d 90, 93 (2024). “A sentencing judge generally has wide discretion when ordering restitution pursuant to NRS 176.033(3) but must use reliable and accurate information in calculating a restitution award.” *Id.* (quoting *Nied v. State*, 138 Nev. 275, 277, 509 P.3d 36, 39 (2022)); *see also Gee*, 140 Nev., Adv. Op. 16, 545 P.3d at 94 (specifying that evidence to support a restitution award must be “competent evidence”). “A defendant is not entitled to a full evidentiary hearing at sentencing regarding restitution, but a defendant is entitled to challenge restitution sought by the state and may obtain and present evidence to support that challenge.” *Gee*, 140 Nev., Adv. Op. 16, 545 P.3d at 93 (internal quotation marks omitted).

First, Menendez Betancourt argues the district court abused its discretion by not continuing the sentencing hearing so that she could challenge the requested restitution. Menendez Betancourt was given the supporting documentation for the restitution request prior to sentencing. Her opportunity to challenge the State’s evidence was at the sentencing

²We note that in her guilty plea agreement, Menendez Betancourt agreed to pay restitution to the victims.

hearing, and she did not request a continuance of the hearing in order for her to challenge the restitution. Therefore, we conclude Menendez Betancourt was afforded an opportunity to challenge the requested restitution, and she fails to demonstrate the district court abused its discretion by not sua sponte continuing the sentencing hearing.

Second, Menendez Betancourt argues the district court abused its discretion by awarding restitution for the jewelry because the amount requested was not supported by competent evidence, the value should have been based on fair market value rather than replacement cost, and J.P. failed to demonstrate she actually owned the jewelry.

The district court found that J.P.'s impact statement and accompanying spreadsheet were reliable and accurate to prove ownership and the current value of the pieces of jewelry. The district court found it would have been unreasonable for J.P. to produce receipts or credit card statements as she stated she had received the jewelry as gifts, or had purchased the jewelry, over a 20-year span. Further, the district court found that Menendez Betancourt could have presented evidence of fair market value to counter the State's proffer of replacement value based on the current replacement costs of the jewelry according to the snapshots of the jewelry's current market value attached to the spreadsheet but failed to do so. The record supports the decision of the district court. Therefore, we conclude the district court did not abuse its discretion by awarding \$31,780 in restitution for the jewelry.³

³To the extent Menendez Betancourt added additional facts and arguments on appeal to support her claim, we decline to consider them on appeal in the first instance. *See State v. Wade*, 105 Nev. 206, 209 n.3, 772 P.2d 1291, 1293 n.3 (1989).

To the extent Menendez Betancourt argues that the amount awarded differed from the amount requested by the victim, and therefore the spreadsheet was not competent evidence, Menendez Betancourt fails to demonstrate she is entitled to relief. Menendez Betancourt relies on *Nied*, 138 Nev. at 277, 509 P.3d at 39, in which the Nevada Supreme Court concluded that the restitution awarded by the district court was based on the amount listed in the presentence investigation report, which was more than the amount supported by the spreadsheet and records provided by the victim. Thus, the supreme court concluded that the restitution award was not supported by reliable and accurate evidence. *Id.* at 277, 509 P.3d at 40. Here, the State calculated the numbers provided in J.P.'s spreadsheet and found that the total amount listed in the spreadsheet was \$8,000 less than the total amount of restitution requested by J.P. Thus, the State's request for the lower amount for restitution was based on an amount that was supported by the evidence of the jewelry's current value provided at the hearing, which is a proper value when calculating replacement costs. *Cf.* NRS 205.0831 (defining value as "the fair market value of the property or services at the time of the theft" and "[t]he trier of fact shall determine the value of all other property whose value is not readily ascertainable, and may, in making that determination, consider all relevant evidence, including evidence of value of the property to its owner"). And the district court imposed the amount that was supported by the evidence provided at sentencing. Thus, Menendez Betancourt fails to demonstrate the district court abused its discretion.

Finally, Menendez Betancourt argues the district court abused its discretion by awarding \$8,250 in restitution to C.C. for the cash that was taken. Menendez Betancourt argues that the restitution award was not

supported by competent evidence because it was based on statements made by the victim's husband that were included in a police report. Menendez Betancourt contends the victim could have supported her claim with evidence such as receipts for the money withdrawals.

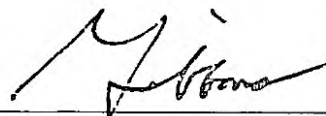
As indicated, the State presented a victim statement that was attached to the arrest report to support the request for restitution to C.C. In the statement, C.C.'s husband wrote that when he and C.C. returned to their hotel room, they could tell the room had been disturbed and a bank bag from Wells Fargo had been taken from the room. C.C.'s husband, whose name was redacted from the statement, wrote there had been two Wells Fargo bags in the room, one with \$700 and one with \$8252. The statement only identified the bag with \$8252 as being taken and did not mention what happened to the bag with \$700. Based solely on this statement, the State asked for \$8250 to be awarded specifically to C.C. in restitution. After considering the statement, the district court awarded the requested restitution to an individual that was not C.C., presumably her husband.

Based on our review of the record, we conclude that the award of restitution was not based on competent evidence. Aside from the statement written by C.C.'s husband at the time the property was reported stolen, the State failed to present evidence or testimony to support the requested restitution amount. *Cf. Vaughn v. State*, 141 Nev., Adv. Op. 6, 563 P.3d 295, 303 (2025) (stating "it is difficult for us to imagine that a single notation in a PSI—presumably a hearsay statement—can constitute 'reliable and accurate evidence'"). Therefore, we vacate the \$8250 restitution award but otherwise affirm the judgment of conviction, including the restitution award of \$31,780 to J.P. We remand this matter to the district court with instructions to conduct a restitution hearing at

which the State may present additional evidence to support the request for restitution as to C.C. and Menendez Betancourt may challenge the restitution sought by the State. *See Gee*, 140 Nev., Adv. Op. 16, 545 P.3d at 96 (vacating a restitution award that was not supported by competent evidence and remanding for further proceedings); *Nied*, 138 Nev. at 277-78, 509 P.3d at 40 (same). Accordingly, we

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


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Crystal Eller, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk