

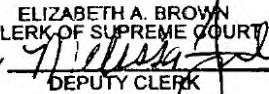
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DONNA LEE BUNCH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 90931-COA

FILED

APR 22 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

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

Donna Lee Bunch appeals from a judgment of conviction, entered pursuant to a guilty plea, of two counts of misdemeanor disorderly conduct. Eighth Judicial District Court, Clark County; Mary Kay Holthus, Judge.

Bunch was originally charged with exploitation of an older/vulnerable person and theft for allegedly using her mother's bank accounts without permission. Testimony at Bunch's preliminary hearing showed that, in September of 2021, Bunch's brother requested Bunch move in with their mother in order to take care of her. The brother was aware Bunch was unemployed at the time and told Bunch she would be "taken care of." By January 26, 2022, the mother was in poor health and was admitted to the hospital; she did not return home after being admitted to the hospital. Bunch's brother sought and received power of attorney over the mother's finances on March 17, 2022. After negotiations, the parties agreed Bunch would plead no contest to two counts of disorderly conduct for conduct that occurred at the hospital and assisted living facilities where the mother was residing. There was no agreement that Bunch would pay restitution.

At sentencing, the State sought restitution for numerous charges made on the mother's bank accounts from November 2021 until April 2022. The State provided summaries of two bank accounts belonging to the mother to support the request. The first summary related to a Bank of America account and had charges from October 14, 2021, to April 4, 2022, totaling \$2,934.05. The second summary related to a Citibank account with charges from January 31, 2022, to March 24, 2022, totaling \$1,831.98. The State sought restitution of "at least \$1,831.98" but wanted the full amount of \$4,766.03. The State argued that the district court should at least award the Citibank amount because those charges occurred after the mother was admitted to the hospital on January 26, 2022, and thus were unauthorized. The State also requested the sum of the charges in the Bank of America summary that occurred after the mother was in the hospital but did not specifically provide that number to the district court. The State categorized all the charges as "unacceptable" and argued Bunch "had no reason to spend that kind of money." Bunch argued against the award of restitution because the summaries provided by the State did not demonstrate the transactions were unauthorized and no testimony was presented that the charges were unauthorized. After hearing these arguments, the district court imposed restitution in the amount of \$1,831.98.

On appeal, Bunch argues the amount awarded was not based on competent evidence. "We review a district court's restitution determination for an abuse of discretion." *Gee v. State*, 140 Nev. 154, 156, 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 id.* at 157,

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.” *Id.* at 156, 545 P.3d at 93 (internal quotation marks omitted).

Bunch reiterates her arguments from below that the summaries provided by the State did not demonstrate that the charges were unauthorized and the State did not present any witnesses to testify the charges were not authorized by Bunch’s mother or by her brother after he obtained power of attorney over the mother’s finances. Also, she contends both summaries included charges after Bunch’s mother was put in the hospital, but the district court only awarded the money from the Citibank summary. Thus, Bunch argues the district court’s award was inconsistent and shows the award was not based on competent evidence. Further, she argues that the only transactions that occurred after the financial power of attorney was put into place totaled \$891.05, and thus, those were the only potentially unauthorized purchases based on the brother’s preliminary hearing testimony. Finally, she contends the district court failed to explain why it imposed restitution for only the Citibank transactions.

The State argues that it presented evidence that the expenditures were unauthorized and provided the actual documents to support the summaries at the preliminary hearing. The documents presented at the preliminary hearing included the bank statements from Citibank and Bank of America, the summaries presented at sentencing, internet billing records, insurance records, and storage facility records. The State argues the records show that charges were made that only supported

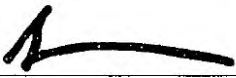
Bunch and not the household, including payments for Bunch's car insurance, storage facility costs, and internet usage after Bunch's mother was in the hospital. Thus, the State contends it presented competent evidence that restitution should be imposed. The State also repeats its argument that all the charges noted in the Citibank summary are supported by competent evidence because they occurred after Bunch's mother was admitted to the hospital.


We conclude the State failed to present sufficient competent evidence to support the award of restitution. We agree with Bunch that the summaries themselves do not demonstrate that all the charges contained therein were unauthorized. Although the State argues the district court had competent evidence in the form of testimony and exhibits introduced at the preliminary hearing, the sentencing transcript does not demonstrate the district court reviewed or considered the preliminary hearing transcript or exhibits at sentencing. Further, even if the district court considered the preliminary hearing transcript and supporting evidence, nothing in the testimony or documents sufficiently demonstrated all the charges in the Citibank summary were unauthorized, either by Bunch's mother or Bunch's brother after he obtained financial power of attorney, particularly considering the mother's statements about Bunch and the general, non-personal nature of some of the charges. The State did not present witnesses or documentation demonstrating the transactions were unauthorized, nor did Bunch admit she took unauthorized money from her mother when she entered her plea to the two counts of disorderly conduct, nor did she agree to pay this amount as restitution as part of a guilty plea agreement. See *Erickson v. State*, 107 Nev. 864, 866, 821 P.2d 1042, 1043 (1991) (holding 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”). Thus, we conclude the district court abused its discretion when awarding \$1,831.98 in restitution.

Therefore, we vacate the \$1,831.98 restitution award but otherwise affirm the judgment of conviction. 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. *See Gee*, 140 Nev. at 160, 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 conviction 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. Mary Kay Holthus, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk