

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEMETRIUS EDWARD JOSEPH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39963

FILED

DEC 09 2002

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count each of attempted robbery and attempted first-degree kidnapping. The district court sentenced appellant Demetrius Edward Joseph to serve concurrent prison terms of 16-72 months and 84-210 months, and ordered him to pay restitution in the amount of \$440.00. On June 18, 2002, Joseph filed a motion to modify restitution. The State opposed the motion. On July 10, 2002, the district court denied Joseph's motion. This appeal followed.

Joseph's sole contention on appeal is that the district court erred at sentencing in determining the proper amount of restitution. More specifically, Joseph challenges the portion of the restitution award (\$300.00) reimbursing the victim for his eyeglasses allegedly broken during the commission of the crime. Joseph argues that the amount requested as restitution for the glasses "rested upon unreliable and inaccurate evidence" and was never verified. We conclude that the district court did not err.

NRS 176.033(1)(c) states that “[i]f a sentence of imprisonment is required or permitted by statute, the court shall: . . . [i]f restitution is appropriate, set an amount of restitution for each victim of the offense.” The district court retains the discretion “to consider a wide, largely unlimited variety of information to insure that the punishment fits not only the crime, but also the individual defendant.”¹ Absent an abuse of discretion, “this court generally will not disturb a district court’s sentencing determination so long as it does not rest upon impalpable or highly suspect evidence.”²

Joseph cannot demonstrate that the district court relied on impalpable or highly suspect evidence in determining the amount of restitution ordered for the reimbursement of the victim’s glasses. The district court considered the victim’s statements at the preliminary hearing during which he testified that his glasses were broken when Joseph struck him in the head from behind. Further, the district court considered the formal request for restitution form completed by the victim and submitted by the Office of the District Attorney’s Victim Witness Assistance Center. While the \$300.00 request was based on the victim’s estimate rather than a receipt for repairs or new glasses, we conclude that it was a reasonable request and the district court did not abuse its discretion in ordering said amount.

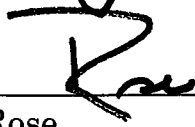
¹Martinez v. State, 114 Nev. 735, 738, 961 P.2d 143, 145 (1998).

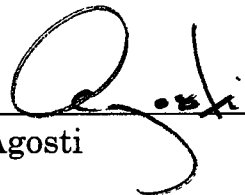
²Martinez v. State, 115 Nev. 9, 12-13, 974 P.2d 133, 135 (1999).

Therefore, having considered Joseph's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.³


_____, C.J.
Young


_____, J.
Rose


_____, J.
Agosti

cc: Hon. Valorie Vega, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Clark County Clerk
Demetruis Edward Joseph

³Although Joseph has not been granted permission to file documents in this matter in proper person, see NRAP 46(b), we have received and considered his proper person documents.