

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN ROLLAND THOMPSON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 51795

**FILED**

MAY 13 2009  
TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an amended judgment of conviction, pursuant to a guilty plea, of driving under the influence of alcohol causing substantial bodily harm (count 1) and leaving the scene of an accident involving personal injury (count 2). Second Judicial District Court, Washoe County; Patrick Flanagan, Judge. The district court sentenced appellant John Rolland Thompson to serve a prison term of 48 to 192 months for count 1 and a concurrent prison term of 36 to 156 months for count 2. The district court ordered Thompson to pay restitution in the amount of \$65,682.75. Thompson subsequently moved to modify the amount of restitution as it pertained to victim Rose Tomasello. After conducting a hearing, the district court entered an amended judgment of conviction, which reduced the amount of restitution to \$40,019.94 and ordered the restitution to be paid as follows: \$1,227 to Renee Archie, \$1,187.75 to Steven Sumner, and \$37,605.19 to Ms. Tomasello.

Thompson contends that the district court erred in setting the amount of restitution to be paid to Ms. Tomasello. Specifically, Thompson argues that the district court's award of restitution improperly compensates Ms. Tomasello for the treatment of her preexisting injuries.

Thompson asserts that the amount of restitution to be paid to Ms. Tomasello should be “limited to the medical costs for the treatment of injuries *directly resulting from the crime.*”

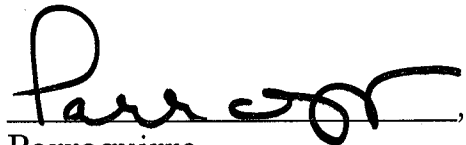
The imposition of restitution is a sentencing determination. See Martinez v. State, 115 Nev. 9, 12, 974 P.2d 133, 135 (1999). Absent an abuse of discretion, “this court generally will not disturb a district court’s sentencing determination so long as it does not rest upon impalpable or highly suspect evidence.” Id. at 12-13, 974 P.2d at 135. “[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.” Erickson v. State, 107 Nev. 864, 866, 821 P.2d 1042, 1043 (1991); see also NRS 176.033(1)(c) (“If 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 . . .”). A 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.” Martinez v. State, 114 Nev. 735, 738, 961 P.2d 143, 145 (1998). A district court, however, must rely on reliable and accurate information in calculating a restitution award. See Martinez, 115 Nev. at 13, 974 P.2d at 135.

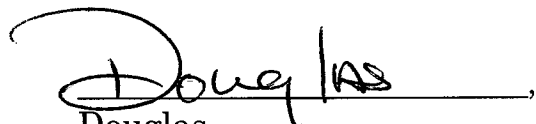
The record reveals that as a result of the accident, Ms. Tomasello suffered a broken left hand, acute compression fractures to two vertebrae, contusions to her right chest area, and a possible broken rib. Within a week of the accident, Ms. Tomasello went to the hospital emergency room on several occasions for the treatment of her injuries. Her last visit to the emergency room resulted in an eight-day hospitalization. After she was released from the hospital, Ms. Tomasello

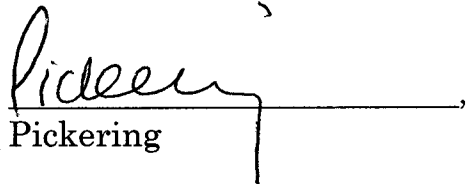
was bedridden for several weeks and had to hire a nursing assistant to temporarily assist with her care. Copies of Ms. Tomasello's hospital bills and bills for related costs were presented to the district court for consideration when determining the restitution amount. After reviewing the briefs and hearing counsels' arguments regarding the amount of restitution owed Ms. Tomasello, the district court found that "the State has proven by a preponderance of the evidence that the medical bills submitted, which comprise treatment shortly, if not immediately after the accident, are related to the criminal conduct in this case, and therefore are the proper subject of restitution." Thompson has failed to demonstrate that the district court relied on unreliable or inaccurate information when calculating the restitution owed to Ms. Tomasello. Therefore, we conclude that the district court did not abuse its discretion when setting the amount of restitution.

Having considered Thompson's contention and concluded that it lacks merit, we

ORDER the amended judgment of conviction AFFIRMED.

 J.  
Parraguirre

 J.  
Douglas

 J.  
Pickering

cc: Hon. Patrick Flanagan, District Judge  
Washoe County Public Defender  
Attorney General Catherine Cortez Masto/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk