

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DOMINICK JON MICHAEL PALMER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 72363

FILED

DEC 14 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Dominick Jon Michael Palmer appeals from a judgment of conviction, pursuant to a no-contest plea, of driving under the influence of alcohol resulting in death or substantial bodily harm. Fourth Judicial District Court, Elko County; Alvin R. Kacin, Judge.


Palmer contends the district court erred in imposing the full amount of restitution the victim sought without first ensuring the victim fulfilled her duty to mitigate the damages. Specifically, Palmer contends the victim should have first sought reimbursement from the vehicle-owner's insurance company. Palmer did not object to the restitution amount or raise the idea of mitigation at sentencing, and he cannot demonstrate the district court's imposition of restitution constituted plain error. *See Miller v. State*, 113 Nev. 722, 724, 941 P.2d 456, 457-58 (1997).

Even if the insurance company had paid the victim, Palmer had no right to reduce his restitution liability by the amount of any insurance payments. *See Martinez v. State*, 115 Nev. 9, 12, 974 P.2d 133, 135 (1999) ("A defendant's obligation to pay restitution to the victim may not, of course, be reduced because a victim is reimbursed by insurance proceeds."). We therefore conclude the district court did not abuse its discretion in imposing

the full restitution amount, *see Hubbard v. State*, 110 Nev. 671, 675, 877 P.2d 519, 521 (1994), and we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Alvin R. Kacin, District Judge
Elko County Public Defender
Attorney General/Carson City
Elko County District Attorney
Elko County Clerk