

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANGELA BONELL A/K/A ANGELA
PORCHAY BONELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 85392-COA

FILED

OCT 18 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
Elizabeth A. Brown
DEPUTY CLERK

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

Angela Bonell appeals from a judgment of conviction, entered pursuant to a guilty plea, of attempted murder with the use of a deadly weapon motivated by bias or hatred toward the victim. Eighth Judicial District Court, Clark County; Mary Kay Holthus, Judge.

Bonell argues the district court abused its discretion when imposing restitution. Specifically, she claims the evidence presented at sentencing was not sufficient to support the award of restitution for the victim's lost wages and the costs the victim incurred for breaking her lease.

"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." *Nied v. State*, 138 Nev., Adv. Op. 30, 509 P.3d 36, 39 (2022) (quoting *Martinez v. State*, 115 Nev. 9, 12-13, 974 P.2d 133, 135 (1999)). "Because restitution is a sentencing determination, this court will not overturn it absent an abuse of discretion." *Id.* "Although restitution should not provide the victim with a windfall, it should adequately compensate the victim for economic losses or

expenses directly related to the criminal offense and necessary to make the victim whole.” *Id.* at 42.

First, Bonell challenges the award of restitution for the victim’s lost wages. She first argues that the supporting documentation regarding the victim’s lost wages was difficult to read and did not prove how much the victim made. Bonell objected on this ground below. The documentation is difficult to read, but after Bonell’s objection, the victim testified that she made \$24.50 an hour. She also testified that she worked 8 hours a day and had been out of work for approximately 8 months after the crime. The victim’s testimony clarified the supporting documentation; thus, Bonell fails to demonstrate she is entitled to relief on this ground.

Bonell also argues that the victim’s testimony regarding her wages was not competent evidence. Bonell did not object to the victim’s testimony on the grounds now raised on appeal. After the victim testified regarding her wages, Bonell objected only on the grounds that the district court generally did not have the authority to impose lost wages and that the victim needed to seek those losses in a civil suit. As a result, Bonell’s argument that the testimony was not competent was not properly preserved below. *See Grey v. State*, 124 Nev. 110, 120, 178 P.3d 154, 161 (2008) (recognizing that to properly preserve an objection, a defendant must object below on the same ground he or she asserts on appeal). Moreover, Bonell does not argue on appeal that relying on the victim’s testimony was plain error. *See Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48 (2018) (recognizing this court may review an otherwise forfeited error if a defendant demonstrates the error is plain and affected their substantial rights). We thus conclude she has forfeited this claim, and we decline to review it on appeal. *See id.*; *Miller v. State*, 121 Nev. 92, 99, 110 P.3d 53,

58 (2005) (stating it is the appellant's burden to demonstrate plain error). Therefore, we conclude that Bonell fails to demonstrate the district court abused its discretion by awarding the victim's lost wages as restitution.

Second, Bonell challenges the award of restitution for the victim's expenses regarding the breaking of her lease. She first argues the victim broke her lease approximately four months after the crime and, therefore, the breaking of the lease was not proven to be directly related to the crime. Bonell objected on this ground below. The mere lapse of time does not mean the breaking of the lease was not directly related to the crime. For example, in *Nied*, the Nevada Supreme Court concluded that the victim's suicide attempt one year after the crime was directly related to the crime because documentation and testimony was presented indicating the victim suffered significant physical injuries and had lingering mental health issues stemming from the crime. 138 Nev., Adv. Op. 30, 509 P.3d at 40.

In this case, the victim testified that, after the attack, she suffered lingering side effects from the attack, including depression, post-traumatic stress disorder, and other mental health effects. The victim and her mother testified that she had to move out of the apartment and out of Las Vegas for her mental health. And the victim provided receipts from mental health treatment she had received. Based on this information, the district court found that the victim would not have broken her lease without this assault having occurred. Bonell failed to demonstrate that the victim's testimony was not reliable and accurate or that the district court abused its discretion by finding that the breaking of the lease was directly related to the crime in this case. Therefore, we conclude Bonell fails to demonstrate

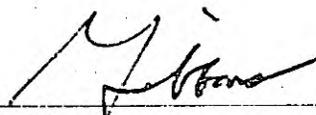
the district court abused its discretion by awarding the victim's expenses regarding the breaking of the lease.

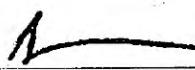
Bonell also challenges the award of restitution for fees charged by the leasing company because such fees are not directly related to the criminal charges. Bonell did not specifically challenge those fees below, and she does not argue plain error on appeal. We thus conclude she has forfeited this claim, and we decline to review it on appeal. *See Jeremias*, 134 Nev. at 50, 412 P.3d at 48; *Miller*, 121 Nev. at 99, 110 P.3d at 58.

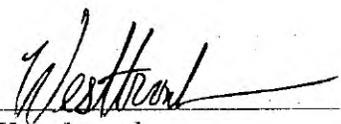
Finally, both parties agree that the judgment of conviction contains an error because the sum of the restitution amounts listed in the judgment of conviction is \$5,000 more than the total restitution imposed at the sentencing hearing for each individual type of restitution. In light of this, we reverse as to the total amount of restitution imposed and remand to the district court to enter a corrected judgment of conviction accurately reflecting the total amount of restitution awarded. *See NRS 176.565* (noting the district court has the authority to correct a clerical error at any time).

Accordingly, we

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


_____, C.J.
Gibbons


_____, J.
Bulla


_____, 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