

SUMMARY STATEMENT

State v. Dempsey, Docket No. 48594

Marissa Shannel Dempsey appealed from her conviction on of several counts of burglary, grand theft, and petit theft, as well as an order requiring Dempsey to pay restitution to several victims of the crimes. Dempsey argued that one count of grand theft must be reduced to petit theft because the evidence was insufficient to establish that the value of the property stolen exceeded \$1,000 in order to satisfy the elements of grand theft. Further, Dempsey argued that several statements made by the prosecuting attorney in closing were improper and that she is entitled to a new trial as a result. Finally, Dempsey challenged awards of restitution to victims for the loss of numerous items. As to an award for the replacement cost of stolen stock certificates and certified marriage certificates, Dempsey alleged that the district court erred because the victim had not actually incurred these costs at the time of her sentencing. As to an award for the loss of certain year-old electronic devices, Dempsey alleged that the district court erred because it determined the market value of the electronics by applying a depreciation rate unsupported by evidence to their purchase price. Lastly, as to awards for stolen coin collections, perfume bottles, a designer purse, and several pieces of diamond jewelry, Dempsey alleged that the district court erred because the evidence was insufficient to establish the market value of the items at the time they were stolen.

The Idaho Supreme Court held that: (1) the evidence was sufficient to support conviction on the challenged count of grand theft; (2) some of the prosecuting attorney's statements were improper, but they did not constitute reversible error; (3) the district court erred in awarding restitution for the stolen stock and marriage certificates; (4) the district court did not err in estimating depreciation of the electronic devices; (5) the district court erred in awarding restitution for the coin collections and perfume; and (6) the district court did not err in awarding restitution for the designer purse and diamond jewelry.

*****This summary constitutes no part of the Court's opinion. It has been prepared by court staff for the convenience of the public.*****