

STATE V. ROMERO

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**STATE OF NEW MEXICO,
Plaintiff-Appellee,
v.
TONY ROMERO,
Defendant-Appellant.**

No. A-1-CA-36707

COURT OF APPEALS OF NEW MEXICO

May 2, 2018

APPEAL FROM THE DISTRICT COURT OF SANTA FE COUNTY, T. Glenn Ellington,
District Judge

COUNSEL

Hector H. Balderas, Attorney General, Santa Fe, NM, for Appellee

Bennett J. Baur, Chief Public Defender, J.K. Theodosia Johnson, Assistant Appellate Defender, Santa Fe, NM, for Appellant

JUDGES

M. MONICA ZAMORA, Judge. WE CONCUR: STEPHEN G. FRENCH, Judge, HENRY M. BOHNHOFF, Judge

AUTHOR: M. MONICA ZAMORA

MEMORANDUM OPINION

ZAMORA, Judge.

{1} Defendant Tony Romero appeals from the district court's judgment and sentence ordering Defendant to pay \$4,666.01 in restitution. This Court issued a calendar notice proposing to affirm the district court's decision. Defendant has responded by filing a

memorandum in opposition, which we have duly considered. Remaining unpersuaded, we affirm.

{2} In his memorandum in opposition, Defendant maintains that the restitution amount set by the district court was improper because restitution requires “a direct causal relationship between the criminal activities of a defendant and the damages which the victim suffers.” [MIO 4 (quoting *State v. Madril*, 1987-NMCA-010, ¶ 6, 105 N.M. 396, 733 P.2d 365)] Thus, Defendant continues to argue that his conviction for attempted embezzlement cannot give rise to the \$1,750.00 down payment for the work paid to Defendant; the \$801.61 for paint and materials provided by victim to Defendant; the \$670.40 victim spent to reacquire and fix the vehicle; and the \$1,244.00 victim paid in car insurance while not having possession of the vehicle. [MIO 6] We disagree.

{3} As this Court pointed out in its calendar notice, a victim is entitled to “all damages which a victim could recover against the defendant in a civil action arising out of the same facts or event”; although it is required that there be a “direct, causal relationship between the criminal activities of a defendant and the damages which the victim suffers.” NMSA 1978, § 31-17-1(A)(2) (2005); *Madril*, 1987-NMCA-010, ¶ 6. Further, as we pointed out in this Court’s calendar notice, our case law adopts a fairly broad interpretation of this standard. See *State v. Ellis*, 1995-NMCA-124, ¶ 3, 120 N.M. 709, 905 P.2d 747 (allowing for \$7,640.22 in restitution based on a theft of \$211.00). We therefore find Defendant’s argument for a much more narrow interpretation of the restitution statute unavailing.

{4} Accordingly, for the reasons stated above and in this Court’s notice of proposed disposition, we affirm.

{5} IT IS SO ORDERED.

M. MONICA ZAMORA, Judge

WE CONCUR:

STEPHEN G. FRENCH, Judge

HENRY M. BOHNHOFF, Judge