

BOISE, WEDNESDAY, MAY 12, 2021 AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	
)	
v.)	Docket No. 48594
)	
MARISSA SHANNEL DEMPSEY,)	
)	
Defendant-Appellant.)	
_____)	

Appeal from the District Court of the Fourth Judicial District of the State of Idaho, Ada County. Nancy A. Baskin, District Judge.

Eric D. Fredericksen, State Appellate Public Defender, Boise, for appellant.

Lawrence G. Wasden, Idaho Attorney General, Boise, for respondent.

In 2018, Marissa Shannel Dempsey was convicted by a jury of several counts of burglary, grand theft, and petit theft, after which the district court entered an order requiring Dempsey to pay restitution to the victims of the crimes. Dempsey appeals on three grounds. First, she argues that her conviction on one count of grand theft must be reduced to petit theft because conviction of grand theft required proof the property taken was worth more than \$1,000, which she alleges the State failed to do. In support, Dempsey maintains that the only evidence to establish value was the victim’s testimony that the property was worth “6 to 10,000, I don’t know,” and that such testimony is insufficient to prove beyond a reasonable doubt it was worth more than \$1,000. Second, Dempsey argues that the prosecutor made several improper statements during closing arguments and that these constituted fundamental error entitling her to a new trial. Finally, Dempsey argues that the district court erred in ordering restitution for several items lost by the victims. With regard to certain stolen jewelry, electronics, coin collections, and other property, Dempsey contends the district court erred because the State failed to present substantial and competent evidence to establish the market value of the property at the time of the crime. With regard to stolen stock certificates and certified marriage licenses, Dempsey argues the district court erred because the victim had not actually incurred the cost of replacing the items before the restitution hearing.