

2016

**The State of Utah, Plaintiff/ Appellee v. Joseph Trujillo,
Defendant/ Appellant.**

Utah Court of Appeals

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IN THE UTAH COURT OF APPEALS

THE STATE OF UTAH, :
 :
 Plaintiff/Appellee :
 :
 v. :
 :
 JOSEPH TRUJILLO, : Case No. 20150779-CA
 :
 Defendant/Appellant. : Appellant is not incarcerated.

BRIEF OF APPELLANT

Appeal from a restitution order following a guilty plea to failure to respond to an officer's signal to stop, a third degree felony, Utah Code § 41-6a-210, in the Third Judicial District, in and for Salt Lake County, Utah, the Honorable Katie Bernards-Goodman presiding.

NATHALIE S. SKIBINE (14320)
ANDREA J. GARLAND (7205)
SALT LAKE LEGAL DEFENDER ASSOC.
424 East 500 South, Suite 300
Salt Lake City, Utah 84111
Attorneys for Appellant

MARK SHURLEFF (4666)
ATTORNEY GENERAL
Heber M. Wells Building
160 East 300 South, 6th Floor
P.O. Box 140854
Salt Lake City, Utah 84114
Attorney for Appellee

FILED
UTAH APPELLATE COURTS

FEB 12 2016

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JOSEPH TRUJILLO, : Case No. 20150779-CA
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NATHALIE S. SKIBINE (14320)
ANDREA J. GARLAND (7205)
SALT LAKE LEGAL DEFENDER ASSOC.
424 East 500 South, Suite 300
Salt Lake City, Utah 84111
Attorneys for Appellant

MARK SHURLEFF (4666)
ATTORNEY GENERAL
Heber M. Wells Building
160 East 300 South, 6th Floor
P.O. Box 140854
Salt Lake City, Utah 84114
Attorney for Appellee

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IN THE UTAH COURT OF APPEALS

THE STATE OF UTAH, :
Plaintiff/Appellee :
v. :
JOSEPH TRUJILLO, : Case No. 20150779-CA
Defendant/Appellant. : Appellant is not incarcerated.

INTRODUCTION

Mr. Trujillo pleaded guilty to failure to respond to an officer's signal to stop. He made no additional admissions to the court or promises to pay restitution. The court awarded \$2,500 in restitution based on the prosecutor's assertions at sentencing that Mr. Trujillo had been driving a stolen car which had accrued \$2,500 in impound fees.

JURISDICTIONAL STATEMENT

This is an appeal from the district court's final order of restitution following a guilty plea to failure to respond to an officer's signal to stop, a third degree felony, Utah Code § 41-6a-210, in the Third Juridical District, Salt Lake County, Utah, the Honorable Katie Bernards-Goodman presiding. R. 63-64; 91. A copy of the Sentence, Judgment, Commitment is attached as Addendum A and a copy of the restitution order is attached as Addendum B. This Court has jurisdiction under Utah Code § 78A-4-103(e)(2).

ISSUE, STANDARD OF REVIEW, PRESERVATION

Issue: Mr. Trujillo admitted and pleaded guilty to failing to respond to an officer's signal to stop and did not agree to pay any restitution. Under Utah law, a defendant cannot be ordered to pay restitution for criminal activities if he did not admit responsibility, was not convicted, and did not agree to pay restitution. The issue is whether the court erred when it entered a restitution award for \$2,500 based on the prosecutor's assertion that the defendant was driving a stolen car and the owner had accrued \$2,500 in impound fees.

Standard of Review: This Court will reverse a district court's order of restitution when the district court "exceeds the authority prescribed by law or abuses its discretion. Furthermore, whether a restitution award is proper depends solely upon interpretation of the governing statute, and the [district] court's interpretation of a statute presents a question of law, which this court reviews for correctness." *State v. Brown*, 2009 UT App 285, ¶ 6, 221 P.3d 273 (alterations omitted) (internal quotation marks omitted).

Preservation: Counsel objected to the restitution award at the restitution hearing. R. 112-13. Counsel also filed a motion to set aside the judgment. R. 65-66.

STATUTES AND RULES

The following statutes are relevant to the issue on appeal: Utah Code §§ 77-38a-102, 77-38a-302, and 41-6a-210. Their text is provided in Addendum C.

STATEMENT OF THE CASE

The State charged Mr. Trujillo with failure to respond to an officer's signal to stop and he pleaded guilty. R. 1-2; 27-33. At sentencing, the State asked for \$2,500

restitution based on car impound fees and the court ordered it. R. 114. Mr. Trujillo filed a motion to set aside the restitution order, which was denied. R. 65; 91. Mr. Trujillo filed a timely notice of appeal. R. 95.

STATEMENT OF FACTS

Mr. Trujillo pleaded guilty as charged to failure to respond to an officer's signal to stop. R. 1-2; 27-33.

The plea form stated that Mr. Trujillo failed "to stop in response to law enforcement's signal to stop" and that he "was driving [and] ignored" the officer's "lights signaling for Mr. Trujillo to pull over, although he saw them." R. 29. There is no further mention of the car.

The Presentence Report notes that Mr. Trujillo failed to stop and that the abandoned vehicle was located shortly thereafter. R. 46. The portion of the report for victim impact statement and restitution reads: "There are no victims or restitution owed in . . . [the] case." R. 48.

At sentencing, the State brought up a new issue. R. 110. After some initial confusion about whether the issue related to this case or to a drug case, the State explained that although Mr. Trujillo "was not charged with possession of a stolen motor vehicle," he "was charged with fleeing I believe." R. 110. And "on the fleeing case, he was in a stolen car. That car was impounded. The victim wants to get it out of impound but can't afford it. So we would ask for restitution on that case." R. 110. The State introduced no testimony or exhibits regarding who owned the vehicle, whether Mr.

Trujillo had permission to be driving it, or the amount of the impound fees. The prosecutor's assertion at sentencing was the only basis for restitution.

The prosecutor explained that "[t]hey said that the impound fees are up to \$2,500," acknowledging that this was "ridiculous." R. 110. According to the prosecutor, the fee would only be \$700 "if he could get it now" but the prosecutor did not "know how Mr. Trujillo is going to be able to pay that quickly." R. 110.

Mr. Trujillo's counsel responded that the law does not allow restitution for crimes to which a defendant did not plead guilty. R. 112. In fact, Mr. Trujillo was not even "charged with driving a stolen car" and maintained that the car belonged to his niece, who allowed him to borrow it. R. 112-13. Additionally, the car was a 1977 Chevrolet, so the \$2,500 figure struck Mr. Trujillo as surprisingly high. R. 113.

The court ordered restitution at the sentencing hearing without analysis. R. 114 ("I'm going to order \$2,500 in restitution").

Mr. Trujillo filed a motion to set aside the restitution order. The motion explained that it was undisputed that Mr. Trujillo never agreed to pay restitution and that he pleaded guilty only to failing to respond to an officer's signal to stop. R. 65-66. And the motion cited controlling Utah case law explaining that a "defendant cannot be ordered to pay restitution for criminal activities for which the defendant did not admit responsibility, was not convicted, or did not agree to pay restitution." R. 66 (citing *State v. Larsen*, 2009 UT App 293, ¶ 6, 221 P.3d 277). The State filed a motion in opposition, in which it "agree[d] that the defendant did not plead guilty to an offense involving his knowledge that he was in possession of a stolen motor vehicle." R. 80. The motion cited no case

law, but made the same argument from sentencing that the car was impounded and the “defendant’s actions directly led to pecuniary loss” in the amount of \$2,500. R. 81. Again the court ordered restitution without analysis. R. 91.

SUMMARY OF THE ARGUMENT

Mr. Trujillo did not admit responsibility for a crime that caused pecuniary damage. He did not plead guilty or admit responsibility for stealing a car, or even for illegally parking one. The law in Utah is clear that restitution is improper in cases where the defendant has not admitted responsibility, was not convicted, and has not agreed to pay. Mr. Trujillo never admitted responsibility for a crime requiring \$2,500 in impound lot fees. The State introduced no evidence, relying instead on the prosecutor’s unsupported and disputed statements at the sentencing hearing. The court erred when it awarded restitution and this Court should reverse.

ARGUMENT

I. The court erred when it awarded restitution for conduct Mr. Trujillo never admitted based on the prosecutor’s unsupported assertions.

A “defendant cannot be ordered to pay restitution for criminal activities for which the defendant did not admit responsibility, was not convicted, or did not agree to pay restitution.” *State v. Larsen*, 2009 UT App 293, ¶ 6, 221 P.3d 277 (internal quotation marks omitted); R. 66. Under the Crime Victims Restitution Act, “[c]riminal activities” means any offense of which the defendant is convicted or any other criminal conduct for which the defendant admits responsibility to the sentencing court with or without an admission of committing the criminal conduct.” Utah Code § 77-38a-102(2). The

Restitution Act applies “[w]hen a defendant is convicted of criminal activity that has resulted in pecuniary damages” or when the defendant “has agreed to make restitution as part of a plea disposition.” Utah Code § 77-38a-302(1). Mr. Trujillo was convicted of one criminal activity for which he admitted responsibility — failing to stop. The crime occurs when a person “receives a visual or audible signal from a peace officer to bring the vehicle to a stop” and “attempt[s] to flee or elude a peace officer by vehicle or other means.” Utah Code § 41-6a-210(1)(a)(ii). No pecuniary damages resulted from it and he did not agree to pay restitution as part of a plea deal. R. 48 (PSI indicating no victims or restitution); 80 (State’s concession that he did not plead guilty to possessing a stolen car).

“[T]he [restitution] statute requires that responsibility for the criminal conduct be firmly established, much like a guilty plea, before the court can order restitution.” *State v. Harvell*, 2009 UT App 271, ¶ 9, 220 P.3d 174 (internal quotation marks omitted). “It does not ask the trial court to analyze a defendant’s state of mind, but rather asks it to focus on admissions made to the sentencing court.” *State v. Watson*, 1999 UT App 273, ¶ 5, 987 P.2d 1289. In *Watson*, the defendant was originally charged with attempted criminal homicide and criminal homicide for driving two codefendants to and from the location where two victims were shot. *Id.* ¶¶ 2, 4. She pleaded guilty to attempted obstruction of justice, for which there was no pecuniary damage. *Id.* ¶ 5. But the district “court focused on the phrase ‘criminal conduct for which the defendant admits’” and determined that “the defendant did admit to the responsibility of driving this vehicle” and to “hearing the shots, individuals running towards the vehicle, her admission that she drove the vehicle away. In this court’s opinion is sufficient nexus to hold her accountable

for restitution in this particular case and meets the statutory definition.” *Id.* ¶ 4 (internal quotation marks omitted). The court of appeals reversed because “[w]ithout making inferences as the trial court did, it cannot be said that [the defendant] admitted responsibility for the murder nor did she agree to pay restitution. [The defendant] only admitted and pleaded guilty to the obstruction of justice charge.” *Id.* ¶ 5.

And in *State v. Mast*, 2001 UT App 402, ¶ 18, 40 P.3d 1143, the defendant’s conviction for receiving stolen property and her failure to be “entirely forthcoming regarding her receipt of the property” did “not allow a court to infer this as participation in” a burglary and order restitution for “all items stolen in the burglary.” In *Larsen*, the defendant made certain admissions in the presentence report, but the statements were “too broad” to “amount to an admission of theft” because they “describe[d] an overall mode of operation rather than an admission to this particular theft.” 2009 UT App 293, ¶ 9. “Because Defendant ha[d] not admitted to theft,” through anything but inference, “he [could] not be ordered to pay restitution on the damages resulting from the theft itself.” *Id.*

In *Watson*, *Mast*, and *Larsen* there were possible inferences based on the defendants’ admissions that the defendants were responsible for additional losses. But that was still not enough to support an order of restitution. In this case, Mr. Trujillo admitted that a police officer turned on his lights and Mr. Trujillo did not stop. That is all. At the sentencing hearing, he stated that the car belonged to his niece, that he had permission to drive it, and that the restitution figure would be too high for the vehicle regardless of fault. R. 112-13. Mr. Trujillo’s case has significantly less to support a

restitution order than the cases above. Unlike *Watson*, Mr. Trujillo was never even charged with the crime for which he was ordered to pay restitution. Compare 1999 UT App 273, ¶ 2, with R. 1. Unlike *Mast*, Mr. Trujillo did not admit to being responsible for some of the restitution in a crime with additional related losses. 2001 UT App 402, ¶ 18. And unlike *Larsen*, where the PSI indicated that the defendant admitted to stealing things, the PSI in Mr. Trujillo's case indicated, "There are no victims or restitution owed in . . . [the] case." Compare 2009 UT App 293, ¶ 2, with R. 48.

Notably, Mr. Trujillo cited this controlling precedent, and neither the State nor the court differentiated it. R. 79-81; 91. "If the court determines that restitution is appropriate or inappropriate under [the Crime Victim's Restitution Act], the court shall make the reasons for the decision part of the court record." Utah Code § 77-38a-302(3). In *State v. Poulsen*, 2012 UT App 292, ¶ 14, 288 P.3d 601, this Court called "the 'reasons for the decision' included as 'part of the court record'" "unenlightening." In Mr. Trujillo's case, they were entirely absent. R. 91. The court provided no analysis for its order. The order states: "Based upon the Court's order of the restitution amount of \$2,500.00 and the request for the State to file an order for the restitution amount. IT IS HEREBY ORDERED that the Defendant pay complete and court ordered restitution in the amount of \$2,500 for the benefit of the victim." R. 91.

Furthermore, the only basis for restitution in the record is the prosecutor's claim at the sentencing hearing that the car was stolen, impounded, and accrued the "ridiculous" sum of \$2,500 in fees. R. 110. The State introduced no testimony and no exhibits. Mr. Trujillo denied that the car was stolen and explained that the owner of the car was not the

person the State claimed was the victim. R. 112-113. In *Poulsen*, the defendant pleaded guilty to soliciting funds for a pyramid scheme and receiving compensation. *Id.* ¶ 14. He “stipulate[d] that the victims’ net loss was \$168,400” and “the State produced photocopies of negotiable instruments from which that amount was calculated.” *Id.* ¶ 16. This Court called the State’s proffers “bare bones” and held that they did “not flesh out the causal nexus between the criminal conduct and the loss, leaving little basis to determine whether that nexus is too attenuated (either factually or temporally).” *Id.* (brackets omitted) (internal quotation marks omitted). The Court held that the “nexus between [the defendant’s] participation [in a pyramid scheme] and [the] victims’ losses [wa]s not obvious” and reversed. *Id.* In Mr. Trujillo’s case, the court relied on a lawyer’s airy assertions, not even the “bare bones” evidence of checks and letters. And the nexus between failure to respond to an officer’s signal to stop and \$2,500 in impound fees for a stopped vehicle is more attenuated than a pyramid scheme is to the victims’ stipulated losses. *See* Utah Code § 41-6a-210(1)(a).

The district court erred when it awarded restitution in this case. Mr. Trujillo admitted guilt and pleaded guilty to a crime with no victims and no pecuniary damages. This Court should reverse.

CONCLUSION

For the reasons stated above, Mr. Trujillo respectfully requests that this Court reverse and set aside the district court's order of restitution.

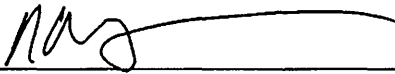
SUBMITTED this 17 day of February, 2016..



NATHALIE S. SKIBINE
Attorney for Defendant/Appellant

CERTIFICATE OF COMPLIANCE

In compliance with the type-volume limitation of Utah R. App. P. 24(1)(1), I certify that this brief contains 2,430 words, excluding the table of contents, table of authorities, addenda, and certificates of compliance and delivery. In compliance with the typeface requirements of Utah R. Ap. P. 27(b), I certify that this brief has been prepared in a proportionally spaced font using Microsoft Word 2010 in Times New Roman 13 point.




NATHALIE S. SKIBINE

CERTIFICATE OF DELIVERY

I, NATHALIE S. SKIBINE, hereby certify that I have caused to be hand-delivered an original and seven copies of the foregoing to the Utah Court of Appeals, 450 South State Street, 5th Floor, Salt Lake City, Utah 84114; and three copies to the Attorney General's Office, Heber M. Wells Building, 160 East 300 South, 6th Floor, Salt Lake City, Utah 84114, this 11 day of February, 2016.


NATHALIE S. SKIBINE

DELIVERED to the Utah Attorney General's Office and the Utah Court of Appeals as indicated above this 11 day of February, 2016.



Tab A

3RD DISTRICT COURT - SALT LAKE
SALT LAKE COUNTY, STATE OF UTAH

STATE OF UTAH, : MINUTES
Plaintiff, : SENTENCE, JUDGMENT, COMMITMENT
 :
vs. : Case No: 151907205 FS
JOSEPH D TRUJILLO, : Judge: KATIE BERNARDS-GOODMAN
Defendant. : Date: August 28, 2015
Custody: Salt Lake County Jail

PRESENT

Clerk: melodys

Prosecutor: ROSSI, ANNA L

Defendant

Defendant's Attorney(s): GARLAND, ANDREA J

DEFENDANT INFORMATION

Date of birth: September 11, 1971

Sheriff Office#: 166240

Audio

Tape Number: S41 Tape Count: 9.46

CHARGES

1. FAIL TO STOP OR RESPOND AT COMMAND OF POLICE - 3rd Degree Felony

Plea: Guilty - Disposition: 07/10/2015 Guilty

SENTENCE JAIL

Based on the defendant's conviction of FAIL TO STOP OR RESPOND AT COMMAND OF POLICE a
3rd Degree Felony, the defendant is sentenced to a term of 365 day(s)

Credit is granted for time served.

Credit is granted for 137 day(s) previously served.

SENTENCE JAIL SERVICE NOTE

Defendant to complete the CATS program.

SENTENCE TRUST NOTE


Case No: 151907205 Date: Aug 28, 2015

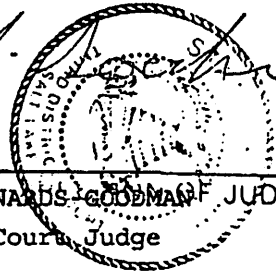
Court orders restitution. State to submit an order. Restitution to be sent to State Debt once its entered.

Date:

8/28/15

By


KATIE BERNADINE GOODMAN JUDGE
District Court Judge



Tab B

SIM GILL, Bar No. 6389
District Attorney for Salt Lake County
ANNA L ROSSI, Bar No. 14099
111 East Broadway, Suite 400
Salt Lake City, UT 84111
Telephone: (385) 468-7600
DAO #15015575

**DISTRICT COURT OF THE STATE OF UTAH, SALT LAKE DEPARTMENT
THIRD JUDICIAL DISTRICT
SALT LAKE COUNTY**

THE STATE OF UTAH, Plaintiff	AMENDED ORDER FOR RESTITUTION
vs.	Case Number 151907205
JOSEPH D TRUJILLO , Defendant	Honorable KATHERINE BERNARDS- GOODMAN

Based upon the Courts order of the restitution amount of \$2,500.00 and the request for the State to file an order for the restitution amount. IT IS HEREBY ORDERED that the Defendant pay complete and court ordered restitution in the amount of \$2,500.00 for the benefit of victim, Alfonso Flores, the minimum amount of \$100 Dollars per month.

IT IS SO ORDERED.

****Executed and entered by the Court as indicated by the date and seal at the top of the page****

CONTINUED TO PAGE TWO

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Amended Order for Restitution was sent, this 1st day of September, 2015, via the Court's electronic filing system or by US mail as addressed, to the following:

Andrea Garland
Attorney at Law

/s/

Barbara Hudson, Legal Secretary

END OF DOCUMENT

Tab C

Effective 5/12/2015**77-38a-102 Definitions.**

As used in this chapter:

- (1) "Conviction" includes a:
 - (a) judgment of guilt;
 - (b) a plea of guilty; or
 - (c) a plea of no contest.
- (2) "Criminal activities" means any offense of which the defendant is convicted or any other criminal conduct for which the defendant admits responsibility to the sentencing court with or without an admission of committing the criminal conduct.
- (3) "Department" means the Department of Corrections.
- (4) "Diversion" means suspending criminal proceedings prior to conviction on the condition that a defendant agree to participate in a rehabilitation program, make restitution to the victim, or fulfill some other condition.
- (5) "Party" means the prosecutor, defendant, or department involved in a prosecution.
- (6) "Pecuniary damages" means all demonstrable economic injury, whether or not yet incurred, which a person could recover in a civil action arising out of the facts or events constituting the defendant's criminal activities and includes the fair market value of property taken, destroyed, broken, or otherwise harmed, and losses including lost earnings and medical expenses, but excludes punitive or exemplary damages and pain and suffering.
- (7) "Plea agreement" means an agreement entered between the prosecution and defendant setting forth the special terms and conditions and criminal charges upon which the defendant will enter a plea of guilty or no contest.
- (8) "Plea disposition" means an agreement entered into between the prosecution and defendant including diversion, plea agreement, plea in abeyance agreement, or any agreement by which the defendant may enter a plea in any other jurisdiction or where charges are dismissed without a plea.
- (9) "Plea in abeyance" means an order by a court, upon motion of the prosecution and the defendant, accepting a plea of guilty or of no contest from the defendant but not, at that time, entering judgment of conviction against him nor imposing sentence upon him on condition that he comply with specific conditions as set forth in a plea in abeyance agreement.
- (10) "Plea in abeyance agreement" means an agreement entered into between the prosecution and the defendant setting forth the specific terms and conditions upon which, following acceptance of the agreement by the court, a plea may be held in abeyance.
- (11) "Restitution" means full, partial, or nominal payment for pecuniary damages to a victim, including prejudgment interest, the accrual of interest from the time of sentencing, insured damages, reimbursement for payment of a reward, and payment for expenses to a governmental entity for extradition or transportation and as may be further defined by law.
- (12)
 - (a) "Reward" means a sum of money:
 - (i) offered to the public for information leading to the arrest and conviction of an offender; and
 - (ii) that has been paid to a person or persons who provide this information, except that the person receiving the payment may not be a codefendant, an accomplice, or a bounty hunter.
 - (b) "Reward" does not include any amount paid in excess of the sum offered to the public.
- (13) "Screening" means the process used by a prosecuting attorney to terminate investigative action, proceed with prosecution, move to dismiss a prosecution that has been commenced, or cause a prosecution to be diverted.

(14)

- (a) "Victim" means any person or entity, including the Utah Office for Victims of Crime, who the court determines has suffered pecuniary damages as a result of the defendant's criminal activities.
- (b) "Victim" may not include a codefendant or accomplice.

Amended by Chapter 147, 2015 General Session

77-38a-302 Restitution criteria.

- (1) When a defendant is convicted of criminal activity that has resulted in pecuniary damages, in addition to any other sentence it may impose, the court shall order that the defendant make restitution to victims of crime as provided in this chapter, or for conduct for which the defendant has agreed to make restitution as part of a plea disposition. For purposes of restitution, a victim has the meaning as defined in Subsection 77-38a-102(14) and in determining whether restitution is appropriate, the court shall follow the criteria and procedures as provided in Subsections (2) through (5).
- (2) In determining restitution, the court shall determine complete restitution and court-ordered restitution.
 - (a) "Complete restitution" means restitution necessary to compensate a victim for all losses caused by the defendant.
 - (b) "Court-ordered restitution" means the restitution the court having criminal jurisdiction orders the defendant to pay as a part of the criminal sentence at the time of sentencing or within one year after sentencing.
 - (c) Complete restitution and court-ordered restitution shall be determined as provided in Subsection (5).
- (3) If the court determines that restitution is appropriate or inappropriate under this part, the court shall make the reasons for the decision part of the court record.
- (4) If the defendant objects to the imposition, amount, or distribution of the restitution, the court shall allow the defendant a full hearing on the issue.
- (5)
 - (a) For the purpose of determining restitution for an offense, the offense shall include any criminal conduct admitted by the defendant to the sentencing court or to which the defendant agrees to pay restitution. A victim of an offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity, includes any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern.
 - (b) In determining the monetary sum and other conditions for complete restitution, the court shall consider all relevant facts, including:
 - (i) the cost of the damage or loss if the offense resulted in damage to or loss or destruction of property of a victim of the offense;
 - (ii) the cost of necessary medical and related professional services and devices relating to physical or mental health care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;
 - (iii) the cost of necessary physical and occupational therapy and rehabilitation;
 - (iv) the income lost by the victim as a result of the offense if the offense resulted in bodily injury to a victim;
 - (v) up to five days of the individual victim's determinable wages that are lost due to theft of or damage to tools or equipment items of a trade that were owned by the victim and were essential to the victim's current employment at the time of the offense; and
 - (vi) the cost of necessary funeral and related services if the offense resulted in the death of a victim.
 - (c) In determining the monetary sum and other conditions for court-ordered restitution, the court shall consider:
 - (i) the factors listed in Subsections (5)(a) and (b);
 - (ii) the financial resources of the defendant, as disclosed in the financial declaration described in Section 77-38a-204;

- (iii) the burden that payment of restitution will impose, with regard to the other obligations of the defendant;
 - (iv) the ability of the defendant to pay restitution on an installment basis or on other conditions to be fixed by the court;
 - (v) the rehabilitative effect on the defendant of the payment of restitution and the method of payment; and
 - (vi) other circumstances that the court determines may make restitution inappropriate.
- (d)
- (i) Except as provided in Subsection (5)(d)(ii), the court shall determine complete restitution and court-ordered restitution, and shall make all restitution orders at the time of sentencing if feasible, otherwise within one year after sentencing.
 - (ii) Any pecuniary damages that have not been determined by the court within one year after sentencing may be determined by the Board of Pardons and Parole.
- (e) The Board of Pardons and Parole may, within one year after sentencing, refer an order of judgment and commitment back to the court for determination of restitution.

Amended by Chapter 74, 2013 General Session

41-6a-210 Failure to respond to officer's signal to stop -- Fleeing -- Causing property damage or bodily injury -- Suspension of driver's license -- Forfeiture of vehicle -- Penalties.

- (1)
- (a) An operator who receives a visual or audible signal from a peace officer to bring the vehicle to a stop may not:
 - (i) operate the vehicle in willful or wanton disregard of the signal so as to interfere with or endanger the operation of any vehicle or person; or
 - (ii) attempt to flee or elude a peace officer by vehicle or other means.
 - (b)
 - (i) A person who violates Subsection (1)(a) is guilty of a felony of the third degree.
 - (ii) The court shall, as part of any sentence under this Subsection (1), impose a fine of not less than \$1,000.
- (2)
- (a) An operator who violates Subsection (1) and while so doing causes death or serious bodily injury to another person, under circumstances not amounting to murder or aggravated murder, is guilty of a felony of the second degree.
 - (b) The court shall, as part of any sentence under this Subsection (2), impose a fine of not less than \$5,000.
- (3)
- (a) In addition to the penalty provided under this section or any other section, a person who violates Subsection (1)(a) or (2)(a) shall have the person's driver license revoked under Subsection 53-3-220(1)(a)(ix) for a period of one year.
 - (b)
 - (i) The court shall forward the report of the conviction to the division.
 - (ii) If the person is the holder of a driver license from another jurisdiction, the division shall notify the appropriate officials in the licensing state.

Renumbered and Amended by Chapter 2, 2005 General Session