

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

UNPUBLISHED
December 20, 2012

v

CHAD JAMES GARRISON,

Defendant-Appellant.

No. 307102
Cheboygan Circuit Court
LC No. 11-004309-FC

Before: FITZGERALD, P.J., and METER and BOONSTRA, JJ.

METER, J. (*concurring in part and dissenting in part*).

I respectfully dissent from that portion of the majority opinion holding that the trial court abused its discretion in ordering defendant to pay his victims for travel expenses related to his criminal conduct. I would affirm this appeal in its entirety.

I acknowledge that this Court, in *People v Jones*, 168 Mich App 191, 196; 423 NW2d 614 (1988), concluded that victims' travel expenses are not compensable as restitution. However, MCR 7.215(J)(1) states:

Precedential Effect of Published Decisions. A panel of the Court of Appeals must follow the rule of law established by a prior published decision of the Court of Appeals issued on or after November 1, 1990, that has not been reversed or modified by the Supreme Court, or by a special panel of the Court of Appeals as provided in this rule.

Because *Jones* was decided before November 1, 1990, the prosecution correctly asserts that it is not binding law.

The prosecution is also correct that the imposition of restitution is *mandatory* (except in certain circumstances not applicable here). MCL 780.766(2). The purpose of restitution is to make victims whole for the losses they have suffered as a result of a defendant's criminal course of conduct. MCL 780.766(2); *People v Gahan*, 456 Mich 264, 271-272; 571 NW2d 503 (1997); *People v Gubachy*, 272 Mich App 706, 713; 728 NW2d 891 (2006). In *Gubachy, id.*, this Court stated that "the Legislature has clearly manifested an intent to make victims of a crime as whole as they can be fairly made and to leave the determination of how best to do so at the trial court's discretion" The Court concluded that a victim's labor costs in inventorying and restocking lost merchandise were properly included in a restitution award. *Id.* at 713-714. In reaching this

conclusion, the Court indicated that MCL 780.766 provides a non-exhaustive list of remedies. *Id.* at 711-714.

Especially in light of *Gubachy*, I believe that the designation of victims' travel expenses as restitution is allowable under MCL 780.766. It serves the intended purpose of making victims as whole as possible.¹

I would affirm this appeal in its entirety.

/s/ Patrick M. Meter

¹ The majority cites *People v Slocum*, 213 Mich App 239, 242; 539 NW2d 572 (1995), for the proposition that assessed "costs" must be expressly authorized by statute. Even assuming that restitution-based travel expenses are encompassed by the term "costs" as employed in *Slocum*, I find that these expenses are authorized by virtue of MCL 780.766