

IN THE UTAH COURT OF APPEALS

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State of Utah,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Plaintiff and Appellee,	)	
	)	Case No. 20091089-CA
v.	)	
	)	F I L E D
Eduardo Barba,	)	(July 15, 2010)
	)	
Defendant and Appellant.	)	<span style="border: 1px solid black; padding: 2px;">2010 UT App 191</span>

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Third District, Salt Lake Department, 031906681  
The Honorable Michele M. Christiansen

Attorneys: Debra M. Nelson, Salt Lake City, for Appellant  
Mark L. Shurtleff and Marian Decker, Salt Lake City,  
for Appellee

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Before Judges Davis, McHugh, and Roth.

PER CURIAM:

Eduardo Barba appeals the district court's November 24, 2009 order. We affirm.

Barba asserts that the district court erred by denying his request for a restitution hearing and by referring the matter to the Board of Pardons (the Board) to determine restitution. Utah Code section 77-38a-302(5)(d)(ii) provides that "[a]ny 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." Utah Code Ann. § 77-38a-302(5)(d)(ii) (2008).

Barba was sentenced on February 23, 2004. Although the district court ordered restitution, it did not determine the amount of restitution within one year of sentencing. On September 8, 2009, Barba filed a motion to schedule a restitution hearing in the district court. The district court denied the request for a restitution hearing on the ground that the district court may refer a restitution determination to the Board if the district court did not set a restitution amount within one year of sentencing.

Because Utah Code section 77-38a-302(5)(d)(ii) permits the district court to refer restitution determinations to the Board if the district court did not set a restitution amount within one year of sentencing, the district court did not err by referring the matter to the Board. See id.

Accordingly, the district court's November 24, 2009 order is affirmed.

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James Z. Davis,  
Presiding Judge

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Carolyn B. McHugh,  
Associate Presiding Judge

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Stephen L. Roth, Judge