

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	
)	No. 68571-6-1
Respondent,)	
)	DIVISION ONE
v.)	
)	UNPUBLISHED OPINION
GUY ADAM ROOK,)	
)	
Appellant.)	FILED: JUL - 8 2013

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 COURT OF APPEALS DIV I
 STATE OF WASHINGTON
 2013 JUL - 8 AM 10:44

PER CURIAM – Guy Rook appeals the order of restitution entered following his conviction for vehicular assault. He contends his counsel was ineffective for not contesting the restitution amount and challenges the sufficiency of the evidence supporting various items of restitution. The State concedes that the restitution amount included a double billing for an emergency room visit and that defense counsel was ineffective for failing to contest the restitution amount. We accept the State’s concession.

With regard to Rook’s sufficiency arguments concerning other items of restitution, the State correctly points out that the superior court did not hold an evidentiary hearing because defense counsel did not dispute restitution. In these circumstances, the State contends, and we agree, that the matter should be remanded for a restitution hearing at which Rook is represented by new counsel and the State has an opportunity to present evidence on any disputed matters. See State v. Saunders, 120 Wn.App. 800, 825, 86 P.3d 232 (2004) (where counsel was ineffective at sentencing for failing to argue same criminal conduct, court remanded for resentencing with new counsel); State v. Mendoza, 165 Wn.2d 913, 930, 205 P.3d 113 (2009) (when there was no objection to criminal

history at sentencing and history was challenged on appeal, proper remedy was to remand for evidentiary hearing at which State could present evidence).

We accept the concession of error and remand for proceedings consistent with this opinion.

For the court:






