

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION THREE

STATE OF WASHINGTON,	)	No. 29908-2-III
	)	
Respondent,	)	
	)	
v.	)	
	)	
MARGARET J. GRINSTEAD,	)	UNPUBLISHED OPINION
	)	
Appellant.	)	
	)	

Brown, J. • Margaret J. Grinstead appeals the trial court’s \$20,000 restitution order after she pleaded guilty to a reduced charge of third degree theft in an *Alford*<sup>1</sup> plea and agreed to pay restitution to David Gustafson. The restitution amount is within the law, the plea agreement, the evidence range, and the trial court’s discretion. Ms. Grinstead’s remaining statement of additional grounds for review (SAG) mainly raises matters outside this record that we cannot review. Accordingly, we affirm.

FACTS

Ms. Grinstead and David Gustafson were married for two years. Years later, Mr. Gustafson moved into an apartment connected to Ms. Grinstead’s home. In May 2009,

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<sup>1</sup> *North Carolina v. Alford*, 400 U.S. 25, 91 S. Ct. 160, 27 L. Ed. 2d 162 (1970).

Mr. Gustafson left his apartment for about six months due to a no-contact order in an unrelated case. When he returned, he discovered the majority of his property was missing. Following an investigation, the State charged Ms. Grinstead with one count of first degree theft, three counts of second degree theft, one count of conspiracy to commit theft of a vehicle, and one count of presenting a false insurance claim. Eventually, as part of a plea agreement, Ms. Grinstead entered an *Alford* plea to third degree theft and agreed to be accountable for restitution as determined by the court. In exchange, the State dismissed the more serious charges.

To establish a factual basis for the plea, Ms. Grinstead agreed the trial court could review the affidavit of probable cause. The affidavit stated Ms. Grinstead had been ordered, “not to remove any of Mr. Gustafson’s belongings from the house they shared.” Clerk’s Papers (CP) at 1316. But, “[w]hile he was away she took a significant amount of his personal items.” *Id.* The affidavit further noted Ms. Grinstead took, “over 800 books and ammunition worth about \$20,000.” It further set forth a list of items totaling “several more thousand dollars.” CP at 1316-17. At the plea hearing, the State noted, “I notice that you didn’t read the entire Affidavit of Probable Cause, which is understandable. It’s quite lengthy. There was a significant amount of items that were taken from the victim in the case.” Report of Proceedings (RP) (Feb. 18, 2010) at 7. Defense counsel then stated, “[T]he only thing I would ask to add to the record would be that she’ll be responsible for

whatever the Court deems is proven at the restitution hearing, not necessarily what's incorporated in the probable cause statement.” RP (Feb. 18, 2010) at 8. The trial court responded, “[c]ertainly.” RP (Feb. 18, 2010) at 8. The trial court sentenced Ms. Grinstead and set a hearing to determine the amount of restitution owed to Mr. Gustafson.

At the restitution hearing, Mr. Gustafson claimed \$30,058.62 in listed missing items he claimed were connected to Ms. Grinstead's theft. He derived his values from the Internet. Generally, he set \$15,924.22 for missing ammunition, and \$14,134.67 for all other missing items listed. Ms. Grinstead conceded she sold some of Mr. Gustafson's books for \$561.99, but she generally disclaimed causal responsibility for the rest of the items. The court considered restitution testimony from several witnesses regarding the nature and extent of Mr. Gustafson's loss before the State asked the trial court to order \$60,000 for restitution, approximately double the claimed loss.

The trial court ordered \$20,000 restitution. The trial court noted it had reviewed the affidavit of probable cause and stated, “The best that I can do given the testimony and evidence that has been presented to me is conclude first of all she probably won't be able to pay restitution back. That's probably not going to happen so I'm not sure what meaning this decision of mine has but best I can do is to indicate she owes \$20,000 restitution.” RP (April 13, 2011) at 17-18. Ms. Grinstead appealed.

#### ANALYSIS

The issue is whether the trial court erred by abusing its discretion in ordering \$20,000 restitution. Ms. Grinstead contends Mr. Gustafson's loss was not causally related to the crime, Mr. Gustafson's loss values are inaccurate, and the court failed to explain how it reached \$20,000.

A court has statutory authority to impose restitution whenever a defendant is convicted of an offense that results in loss of property. RCW 9.94A.753(5); *State v. Griffith*, 164 Wn.2d 960, 965, 195 P.3d 506 (2008). Restitution is allowed solely for losses “causally connected” to the crimes charged. *Griffith*, 164 Wn.2d at 965 (internal quotation marks omitted) (quoting *State v. Tobin*, 161 Wn.2d 517, 524, 166 P.3d 1167 (2007)). The question is “whether, ‘but for’ the crime, the damages would have occurred.” *Tobin*, 161 Wn.2d at 526. We review the court's restitution order for an abuse of discretion. *State v. Dedonado*, 99 Wn. App. 251, 255, 991 P.2d 1216 (2000). A court abuses its discretion when its decision is manifestly unreasonable or exercised on untenable grounds, or for untenable reasons. *State v. Enstone*, 137 Wn.2d 675, 679-80, 974 P.2d 828 (1999).

Losses are causally connected if, but for the charged crime, the victim would not have incurred the loss. *Tobin*, 161 Wn.2d at 524. A trial court has broad discretion in making reasonable inferences regarding the causal connection between the crime and expenses. *State v. Pierson*, 105 Wn. App. 160, 168, 18 P.3d 1154 (2001). Courts have

broad discretion when determining the restitution amount. *State v. Kinneman*, 155 Wn.2d 272, 282, 119 P.3d 350 (2005). If a defendant disputes the restitution amount, the State must prove the damages by a preponderance of the evidence. *Id.* at 285.

Ms. Grinstead pleaded guilty to third degree theft as part of a plea agreement that reduced serious charges that reflected a sizable property loss. She then agreed, “the judge will order me to make restitution . . . restitution may be up to double my gain or double the victim’s loss.” CP at 7. Mr. Gustafson provided a detailed list of the items taken, estimating replacement values through Internet research. The total was \$30,058.62. The State requested \$60,000 in restitution, an amount slightly less than double Mr. Gustafson’s claimed loss. The court noted Ms. Grinstead’s limited resources and reduced it to \$20,000.

Ms. Grinstead admitted taking property. Between the affidavit of probable cause and the testimony at the restitution hearing, the State provided sufficient factual information to establish the amount of loss. This evidence provided tenable grounds for the court to set the restitution at \$20,000, an amount within the evidence range and the court’s statutory authority. The State presented evidence showing Mr. Gustafson’s loss was causally related to Ms. Grinstead’s crime and established the replacement figures by a preponderance of evidence to the court’s satisfaction. The court thus acted within its discretion in setting restitution at \$20,000.

Pro se, Ms. Grinstead raises several concerns in her SAG relating to the restitution order. Since most of her concerns have been adequately addressed by counsel, they will not be reviewed again. *See* RAP 10.10(a) (purpose of SAG is to permit appellant “to identify and discuss those matters which the defendant/appellant believes have not been adequately addressed by the brief filed by the defendant/appellant’s counsel”).

Remaining is whether the State’s witnesses had conflicts of interest and perjured themselves during the restitution hearing. To support her argument, Ms. Grinstead relies on evidence outside our record, such as phone records, a power of attorney document, and city council meeting minutes. A personal restraint petition is the proper means to introduce evidence outside the record on appeal. *State v. McFarland*, 127 Wn.2d 322, 338, 899 P.2d 1251 (1995). Without more, Ms. Grinstead’s challenge to the State’s witnesses necessarily fails.

Affirmed.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

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Brown, J.

WE CONCUR:

No. 29908-2-III  
*State v. Grinstead*

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Korsmo, C.J.

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Kulik, J.