

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR SUSSEX COUNTY

STATE OF DELAWARE : Def. ID# 0203021271
 :
 v. :
 :
 WILLIAM G. BRATTON :
 :
 :
 :

Date of Submission: December 18, 2002
Date of Order: March 10, 2003

Stephanie A. Tsantes, Esquire
Department of Justice
114 East Market Street
Georgetown, DE 19947

E. Stephen Callaway, Esquire
Office of the Public Defender
14 The Circle, 2nd Floor
Georgetown, DE 19947

ORDER ON RESTITUTION

WHEREAS, the defendant was charged with Assault in the Second Degree and Disorderly Conduct;

WHEREAS, the particular allegation to the Assault in the Second Degree charge was as follows: “William G. Bratton, on or about the 22nd day of March, 2002, in the County of Sussex, State of Delaware, did intentionally or recklessly cause physical injury to Harold Rosenthal, who is 62 years of age or older, by pushing the victim.”;

WHEREAS, the particular allegation to the Disorderly Conduct charge was as follows: “William G. Bratton, on or about the 22nd day of March, 2002, in the County of Sussex, State of Delaware, did intentionally cause or create a risk of public inconvenience, annoyance or alarm to another person by engaging in fighting behavior.”;

WHEREAS, the defendant pled guilty to Assault in the Third Degree, a lesser-included offense of Assault in the Second Degree, and Disorderly Conduct. As part of the plea agreement, the Investigative Services Office was requested to determine the amount of restitution and submit a restitution memorandum to the Court for review by the judge to determine whether a restitution hearing was necessary;

WHEREAS, a restitution hearing was held on December 18, 2002 with testimony and

other evidence;

NOW, THEREFORE, on this 10th day of March, 2003, the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Harold Rosenthal (hereinafter "Rosenthal") was working as a guard at the American Legion Post.
2. William G. Bratton (hereinafter "Bratton") was drinking at the American Legion Post.
3. Rosenthal told the bartender to stop serving Bratton alcoholic beverages because Bratton was behaving erratically.
4. Bratton pushed Rosenthal, causing Rosenthal to fall back and strike his head on a pool table.
5. Rosenthal used his hands in an attempt to "break his fall."
6. Rosenthal was taken to Beebe Hospital to treat his injuries.
7. Rosenthal sustained a minor concussion and a sore right thumb.
8. Rosenthal has continued to seek medical treatment for his injuries, which are related to the fall caused by Bratton.

CONCLUSIONS OF LAW

1. A defendant must make restitution to a victim for the consequences of a criminal act.¹
2. A plea of guilty can establish responsibility to make restitution.²
3. The amount of restitution is not necessarily limited to the trial evidence necessary to establish guilt beyond a reasonable doubt.³

¹11 Del. C. § 4106(a).

²*State v. Orzechowski*, 1980 WL 4749, *3 (Del. Fam. Ct.).

³*Benton v. State*, 711 A.2d 792, 796 (Del. 1998).

4. The amount of restitution may be established at a hearing by proof under the preponderance of the evidence.⁴
5. In addition, a restitution award may include compensation for out-of-pocket losses and other expenses directly resulting from the defendant's criminal acts.⁵
6. The evidence shows that Bratton caused physical injury to Rosenthal.
7. Rosenthal's treatment for his injuries is related to the fall caused by Bratton.
8. Considering the foregoing, the defendant is hereby ordered to pay restitution as follows:

\$ 714.13 to Harold Rosenthal
\$2,635.54 to Medicare Part B
\$ 818.85 to United Healthcare Insurance Company

IT IS SO ORDERED.

E. Scott Bradley

⁴*Ibid* at 796, 797.

⁵*Ibid*.