RENDERED: February 20, 1998; 2:00 p.m.
NOT TO BE PUBLISHED

NO. 96-CA-3367-MR

RHONDA SKAGGS APPELLANT

V. APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE WILLIAM E. McANULTY, JR., JUDGE
ACTION NO. 96-CR-848

COMMONWEALTH OF KENTUCKY APPELLEE

OPINION AFFIRMING

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BEFORE: GUDGEL, Chief Judge; GUIDUGLI and SCHRODER, Judges.

GUDGEL, CHIEF JUDGE: This is an appeal from an order entered by the Jefferson Circuit Court. Appellant Rhonda Skaggs was sentenced to probation and ordered to pay restitution as a condition of probation in connection with her conviction for theft by unlawful taking. On appeal, appellant contends that the court erred by ordering her to pay restitution in the amount of $2,700. We disagree. Hence, we affirm.

On December 7, 1995, Skaggs visited the apartment of John Shelly ostensibly for the purpose of having her hair styled. Shelly observed Skaggs rummaging through dresser drawers during the course of the visit. Later, Shelly drove Skaggs home and observed two packages of his brand of cigarettes fall out of her

sleeve. After he returned home Shelly found that cash, two wedding bands, a gold medallion and chain, prescription drugs and cigarettes were missing. He reported the theft to police. That evening a police officer took a report and the next day Shelly obtained a warrant charging Skaggs with theft. After obtaining the warrant, Shelly discovered that two bolo ties and another ring were also missing. Once again, Shelly called police but they did not elect to make a supplemental report.

On April 10, 1996, Skaggs was indicted for burglary, theft, and knowingly receiving stolen property. The Commonwealth's bill of particulars stated that "[w]hen the Prosecuting witness got home he discovered numerous items had been stolen: $50 in cash, an 18kt. Gold St. Christopher Medallion and chain, three rings, two bolo ties, prescription medicine and the cigarettes he had seen fall out of the defendant's sleeve." The Commonwealth's failure to produce the supplemental incident report was a contested matter during the trial court proceedings. Skaggs entered into a plea agreement on July 16, 1996, whereby she agreed to plead guilty to the theft charge with the remaining charges to be dismissed. As a condition of receiving probation, she agreed to make restitution to Shelly.

The Commonwealth disclosed to Skaggs on July 25, 1996, that the police failed to write a supplemental report listing the bolo ties and third missing ring. On August 28, 1996, an evidentiary hearing was conducted to ascertain the amount which

would be paid as restitution. During the hearing, it was determined that the two wedding bands had been found at a pawn shop and Skaggs denied that she stole the two bolo ties and a certain ring. Thus, the parties' positions regarding the amount which should be paid as restitution are as follows:

Item	Appellant	Appellee
Cash	$ 50.00	$ 50.00
Medallion & Chain	700.00	1,000.00
Bolo Ties	-0-	850.00
Ring	-0-	800.00
	$ 750.00	$2,700.00

On October 25, 1996, the trial court entered a final order fixing restitution at $2,700. This appeal followed.

Appellant argues that the trial court erred by ordering her to pay restitution in the amount of $2,700 rather than $750. We disagree.

KRS 533.030(3) states that if, as here, a sentence to conditional discharge is imposed in a case in which the victim of the crime has sustained monetary damage, then restitution shall be ordered. Appellant argues, however, that since she did not specifically admit or specifically plead guilty to taking the two bolo ties and the ring, she cannot be required to pay restitution as to these two items. We cannot agree.

The statute expressly uses the mandatory language "restitution shall be ordered in the full amount of the damages," but not to exceed $100,000. The statute does grant the trial court discretion to order a defendant "to make restitution by

working for or on behalf of the victim." However, if monetary restitution is ordered, it must be "in the full amount of the damages." Here, the court conducted an evidentiary hearing and found that appellant did steal the bolo ties and ring. Based upon the testimony adduced at the hearing, we cannot say that the court's findings in this vein are clearly erroneous. CR 52.01; Commonwealth v. Fint, Ky., 940 S.W.2d 896, 898 (1997). Hence, they may not be disturbed.

We further note that appellant's reliance upon Hughey v. United States, 495 U.S. 411, 110 S.Ct. 1979, 109 L.Ed.2d 408 (1990), and United States v. Wainwright, 938 F.2d 1096 (10th Cir. 1991), is misplaced. These federal cases interpret the restitution provisions of the Federal Victim and Witness Protection Act of 1982 (VWPA), 18 U.S.C. §§ 3579 and 3580 (recodified at 18 U.S.C. §§ 3663 and 3664).

The Supreme Court held in Hughey that the VWPA confined the amount of restitution to the "loss caused by the specific conduct that is the basis of the offense of conviction." 495 U.S. at 413. In Hughey, the defendant was indicted inter alia on three counts of unauthorized use of a credit card. In exchange for the government's dismissal of the remaining counts, Hughey pled guilty on the count which charged him with knowingly using an unauthorized MBank Mastercard issued to Hershey Godfrey. The losses sustained as a result of the card's use amounted to $10,412. However, the trial court ordered Hughey to make restitution of $90,431 covering all losses sustained by MBank as

a result of Hughey's fraudulent use of not only the Godfrey card, but also 20 other cards he had stolen from other MBank cardholders. The Supreme Court reversed the order because Hughey had pled guilty to only the charge that he had fraudulently used Godfrey's credit card and, hence, ordering restitution for losses stemming from the use of other cards was improper. We note that soon after Hughey was rendered, the VWPA was amended to allow a court to "order restitution in any criminal case to the extent agreed to by the parties in a plea agreement." 18 U.S.C. §3663(a)(3); see United States v. Guardino, 972 F.2d 682, 687 (6th Cir. 1992).

Unlike the situation in Hughey involving multiple theft offenses, here there was but one theft offense rather than many separate and unrelated offenses. Thus, Hughey is clearly distinguishable from the instant action. For similar reasons Wainwright, supra, which applies Hughey, is also distinguishable on its facts. Thus, neither of the federal cases relied upon by appellant support her position.

The court's judgment is affirmed.

ALL CONCUR.

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