

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

UNPUBLISHED
November 14, 2013

v

CHRISTOPHER LEE TAYLOR,

Defendant-Appellant.

No. 310884
Macomb Circuit Court
LC No. 2011-002451-FH

Before: OWENS, P.J., and JANSEN and HOEKSTRA, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial convictions of embezzlement of \$100,000 or more, MCL 750.174(7), conspiracy to embezzle \$100,000 or more, MCL 750.157a, conducting a criminal enterprise, MCL 750.159i(1), and conspiracy to conduct a criminal enterprise, MCL 750.159i(4). The trial court sentenced defendant to concurrent terms of 4 to 20 years' imprisonment for each offense. Defendant was ordered to pay restitution in the amount of \$550,000 to the victim of his crimes. We remand to correct defendant's judgment of sentence, but affirm his convictions and sentences in all other respects.

As an initial matter, the parties do not dispute that the total loss to the victim of defendant's fraudulent scheme was \$550,800, and this is confirmed by evidence in the record. At sentencing, the trial court stated that restitution would be ordered for \$550,800, but defendant's judgment of sentence ordered restitution for \$550,000. This clerical mistake must be corrected by the trial court on remand. MCR 6.435(A); MCR 7.208(A)(1).

On appeal, defendant argues that the trial court erred when it did not order that his restitution obligation be joint and several with his coconspirators. We agree. We review a trial court's restitution order for an abuse of discretion. *People v Fawaz*, 299 Mich App 55, 64; 829 NW2d 259 (2012).

The Crime Victim's Rights Act (CVRA), which governs restitution to crime victims, provides that "the court shall order . . . that the defendant make full restitution to any victim of the defendant's course of conduct that gives rise to the conviction . . ." MCL 780.766(2). Here, it was determined that the victim suffered \$550,800 in losses. Because the codefendants were charged with conspiracy and each could have been responsible for the entire amount of restitution, see *People v Grant*, 455 Mich 221, 236-237; 565 NW2d 389 (1997), as part of their plea agreements the prosecutor apportioned the amount that they were directly liable for and only

made them responsible to pay that amount. As such, both codefendants pleaded guilty to embezzlement, and one codefendant was ordered to \$400,800 in restitution and the other was ordered to pay \$7,600, for a total of \$408,400. Although there is no authority mandating the trial court to order that restitution be paid jointly and severally among codefendants, holding defendant solely liable for \$550,800 would provide the victim with the opportunity to recover an additional \$408,400 if each defendant paid their required restitution. Thus, although it is true that a defendant found guilty of conspiracy may be ordered to pay restitution for the entire amount of the victim's loss that is the result of the conspiracy, see *id.*, here, the trial court's decision to hold defendant solely liable for \$550,800 was an abuse of discretion given that it provides the victim with the potential to recover more than what was lost. Accordingly, the total amount of restitution defendant is responsible for is still \$550,800, but only \$142,400 is solely payable by him and the remaining \$408,400 is payable jointly and severally among codefendants.

Affirmed, but remanded to amend the judgment of sentence in accordance with this opinion. We do not retain jurisdiction.

/s/ Donald S. Owens
/s/ Kathleen Jansen
/s/ Joel P. Hoekstra