



**In The  
Court of Appeals  
Sixth Appellate District of Texas at Texarkana**

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No. 06-11-00092-CR

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MARQUIS LEQUAVIOR MARSHALL, Appellant

V.

THE STATE OF TEXAS, Appellee

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On Appeal from the 71st Judicial District Court  
Harrison County, Texas  
Trial Court No. 10-0212X

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Before Morriss, C.J., Carter and Moseley, JJ.  
Memorandum Opinion by Justice Moseley

## MEMORANDUM OPINION

Marquis Lequavior Marshall challenges a restitution order contained within the trial court's judgment adjudicating his guilt for the offense of burglary of a building.<sup>1</sup> Marshall argues that no evidence supports the restitution order of \$1,751.20. We disagree.

We review challenges to restitution orders under an abuse of discretion standard. *Cantrell v. State*, 75 S.W.3d 503, 512 (Tex. App.—Texarkana 2002, pet. ref'd) (citing *Cartwright v. State*, 605 S.W.2d 287, 288–89 (Tex. Crim. App. [Panel Op.] 1980)). A trial court abuses its discretion when it acts in an arbitrary or unreasonable manner. *Id.* (citing *Montgomery v. State*, 810 S.W.2d 372, 380 (Tex. Crim. App. 1990)). The amount of restitution must be supported by the record. *Campbell v. State*, 5 S.W.3d 693, 696, 699 (Tex. Crim. App. 1999) (citing *Cartwright*, 605 S.W.2d at 289).

The State's indictment alleged that Marshall "intentionally or knowingly enter[ed] a building or a portion of a building without the effective consent of Alan Matysiak, the owner thereof, and attempted to commit or committed theft of property, to-wit: cash register, tobacco products, and U.S. Currency, owned by Alan Matysiak." Marshall and his mother met with investigators and offered the following information:

[Marshall] and a guy named Joe broke into the store at the intersection of FM 9 and FM 1999 a couple of days ago. Marshall advised me that he drove his father['s] truck to the store along with Joe. Marshall stated that they parked behind the store and they walked up to the front door of the store. Marshall stated that Joe threw a

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<sup>1</sup>Marshall was sentenced to two years in state jail. His sentence was suspended, and he was placed on five years' community supervision.

center [sic] block brick through the front door glass and they both entered the building without the owner[']s consent. Marshall stated that they stole some cigarettes, cigars, change, cash register, and a trash can.

Pursuant to a plea agreement, Marshall agreed, in writing, to repay a sum of \$1,751.20 to Matysiak in the form of restitution.<sup>2</sup> Accordingly, the trial court's order of deferred adjudication contained the requirement that Marshall "repay \$1,751.20 to Alan Matysiak." The restitution amount and requirement was included in the terms and conditions of Marshall's community supervision. He signed these terms and "voluntarily assented and agreed to the same and bound [him]self to comply with the same," never complaining of the amount of restitution set pursuant to his contract in the form of a plea agreement with the trial court. The State filed a motion to proceed with adjudication of guilt. Among other allegedly violated conditions of community supervision, the State alleged Marshall failed to pay "Victim restitution: \$1,751.20 at the rate of \$45.00 per month" pursuant to condition ten of his conditions of community supervision. Marshall pled true to the State's motion and entered a written, specific judicial confession to violating this condition.

Q . . . . You did not make any of your payments; correct?

A Yes, sir.

Q Okay. Did not do the Crime Stopper, did not pay restitution to the victim. Did you make a dent in the \$1,751 that you owed the victim at all?

A No, sir.

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<sup>2</sup>He signed a stipulation of evidence, but said the stipulation did not mention restitution.

The trial court continued Marshall on community supervision, but confirmed that “the Court is going to make sure that the record is clear that you still will be required to pay the restitution of \$1,751.21 to the victim in this matter.”

Again, Marshall’s complaint is only to the sufficiency of the evidence supporting the amount of restitution. However, the restitution amount is supported by his written agreement to pay \$1,751.21 in restitution to the victim, judicial confession that he had violated his community supervision for failing to pay this amount in installments of \$45.00 per month, and testimony at the hearing on the motion to adjudicate acknowledging the payment amount. Therefore, we cannot say that the trial court abused its discretion in ordering restitution in this amount.

We affirm the trial court’s judgment.

Bailey C. Moseley  
Justice

Date Submitted: August 12, 2011  
Date Decided: August 15, 2011

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