

IN THE UTAH COURT OF APPEALS

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State of Utah,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Plaintiff and Appellee,)		
)	Case No. 20070235-CA	
v.)		
)		
Leah Mae Hall,)	F I L E D	
)	(March 6, 2008)	
Defendant and Appellant.)		
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State of Utah,)		
)		
Plaintiff and Appellee,)		
)		
v.)		
)		
Edward Pulido Jr.,)		
)		
Defendant and Appellant.)		

Fifth District, Beaver Department, 061500169, 061500170
The Honorable G. Michael Westfall

Attorneys: Randall C. Allen, Cedar City, for Appellants
Mark L. Shurtleff and Joanne C. Slotnik, Salt Lake
City, for Appellee

Before Judges Thorne, Bench, and Billings.

PER CURIAM:

Appellants Leah Hall and Edward Pulido Jr. each pleaded guilty to unauthorized use of a vehicle for an extended time, a third degree felony. They appeal the restitution orders making them jointly and severally liable to pay \$6,711.10 as restitution.

The owner of a 2004 Hyundai Sonata testified that it was stolen from his Layton residence and later located in Beaver County. At that time, the vehicle was missing a wheel, smelled strongly of smoke, and had damage to the paint and tires. After mechanics were unable to align the car, they discovered

undercarriage damage that was the likely result of hitting a curb or other obstacle at high speed. This resulted in an upward adjustment of the repair estimate to \$6,162.67. On cross-examination, the owner testified that the vehicle was in excellent condition when it was taken, had not been in any accidents, and had required no maintenance other than oil changes. In the testimony relevant to this appeal, the owner testified:

I have full coverage insurance on the car. Say there would have been any damages from like a door ding or something from a parking lot, when a car is in the shop you're paying the deductible, they would also repair that damage. So there may be some of this damage on this that is not from them stealing the car.

Although conceding that there may be items on the repair estimate that did not occur while Defendants possessed the car, the owner testified that "the undercarriage damage, the bent A-arms, the bent struts, the tires having an air bubble on the side, and most likely" a broken wheel were results of the theft. The owner's insurer requested restitution in the amount of \$5,912.67 for vehicle repair and \$798.43 for the cost of a rental vehicle.

Defendants argued that because the owner conceded that some work done on the vehicle that was not a result of the theft, the restitution award was excessive. However, the district court stated that it "heard testimony that [the vehicle] was in excellent condition, that there was nothing wrong with the vehicle and that it was stolen and during the course of the defendants having possession of the stolen vehicle, the vehicle sustained substantial damage." Accordingly, the court found "that the \$5,912.67 to repair that damage is not at all unreasonable" and ordered Defendants to be jointly and severally liable to pay restitution for the repairs in that amount and for the cost of the rental vehicle of \$798.43, for a total of \$6,711.10.

"An appellate court will not disturb a trial court's restitution order unless it exceeds that prescribed by law or otherwise abused its discretion." State v. Breeze, 2001 UT App 200, ¶ 5, 29 P.3d 19. The sole claim on appeal is that the owner conceded that the repair amount possibly included repair of other minor damage to the vehicle that was not caused by Defendants. The State correctly states that "defense counsel did not pursue a line of questioning to identify any specific damage that was repaired but not caused by defendants." Accordingly, the trial court did not abuse its discretion in ordering restitution that

comported with the insurance company's request and was less than the body shop's estimate, and was supported by the owner's undisputed testimony that the vehicle was in excellent condition when it was taken.

We affirm.

William A. Thorne Jr.,
Associate Presiding Judge

Russell W. Bench, Judge

Judith M. Billings, Judge