

crushed sinuses. He underwent surgery to insert four metal plates into his face.

Danford pleaded guilty to robbery in the first degree. As part of his felony plea agreement, he agreed to pay restitution in full. The statutorily imposed deadline for the trial court to enter a restitution order was March 17, 2010. Danford's restitution hearing, originally set for March 4, was continued to March 15. At the March 15 hearing, Danford agreed the restitution order should include payment for Black's lost wages and stolen telephone, but contested the causal connection between Danford's crime and Black's medical expenses. In support of its request, the State relied on the certification for determination of probable cause, the prosecutor's summary, and a series of medical bills. The medical bills include dates of care, providers, billed amounts, amounts paid, and brief descriptions of services rendered. Typical medical descriptions on the bills include "ANESTHESIA," "SURGERY OPEN RX COMPLX CHEEK FX+G-," and "OUTPATIENT SERVICES . . . CLINIC." The trial court found good cause to continue the restitution hearing to March 19, two days beyond the statutory limit.

At the March 19 hearing, the State presented the same documents and two additional charts created by the prosecutor's victim assistance unit. The State did not produce any witnesses, nor provide an affidavit from Black. The trial court ordered Danford to pay restitution of \$8,822.47 to Black and \$37,503.85 to Ingenix Subrogation Services for amounts paid by Black's insurance company. Danford appeals.

DISCUSSION

I. Reliance on the Certification and Prosecutor's Summary

Danford agreed in his felony plea agreement that the facts in the certification

and the prosecutor's summary were real and material facts for purposes of sentencing. He further agreed to pay restitution in full. At the March 19 restitution hearing, Danford objected to use of the prosecutor's summary.¹ Danford argues on appeal that sentencing and restitution are distinct and that he only agreed to treat the certification and the prosecutor's summary as real and material facts for purposes of sentencing.

Contrary to Danford's assertion, "[r]estitution is an integral part of sentencing." State v. Dedonado, 99 Wn. App. 251, 257, 991 P.2d 1216 (2000). In fact, this Court has stated that "[i]n determining any sentence, including restitution, the sentencing court may rely on no more information than is admitted by the plea agreement." Id. at 256. Where the plea agreement stipulates the facts in the certificate of probable cause are real facts for purposes of sentencing, they become facts for purposes of restitution. State v. Tindal, 50 Wn. App. 401, 402-03, 748 P.2d 695 (1988).

Nevertheless, Danford argues the plea agreement's use of the term "for purposes of this sentencing" is an ambiguous statement that must be construed against the State. State v. Bisson, 156 Wn.2d 507, 521-23, 130 P.3d 870 (2006). To distinguish sentencing and restitution, Danford relies on State v. Bunner, 86 Wn. App. 158, 936 P.2d 419 (1997). In Bunner, the State conceded it provided insufficient evidence at the restitution hearing, but argued a presentence investigation report (PSI) used at sentencing was sufficient to affirm the restitution award on appeal. Id. at 160-61. Even though the PSI was neither presented nor relied upon at the restitution hearing, the State argued it could be used on appeal because the defendant did not object to its use at sentencing. Id. at 161. But, "[r]equiring the defendant to object to

¹ Danford made no objection to use of the certification.

the PSI at sentencing based on conceivable objections the defendant may have to the report at the restitution hearing would be administratively burdensome. This is because a defendant may have no objection to the PSI for sentencing purposes, but a strenuous objection to the information for restitution purposes.” Id. The PSI could not be used on appeal “because it was not properly submitted below.” Id. at 162. The PSI in Bunner could not be considered on appeal because it was not used at the restitution hearing, not because the restitution hearing is not part of sentencing. Thus, Bunner is distinguishable.

Here, both the certification and the prosecutor’s summary were considered and relied upon at the restitution hearing. Further, the certification and prosecutor’s summary were not merely used at sentencing without objection. Danford explicitly agreed the facts in the documents were real and material for purposes of sentencing and agreed to pay restitution in full. In this context, there is nothing ambiguous about the phrase “for purposes of this sentencing.” Danford’s restitution hearing was a part of his sentencing. The trial court properly relied on the certification and the prosecutor’s summary.

II. Causal Connection

Danford also argues the State failed to show a causal connection between Danford’s crime and Black’s expenses. Danford does not challenge the reasonableness or necessity of Black’s medical procedures, or the authentication of medical bills. He offers no evidence to rebut the State’s claim. His argument relies solely on the State’s failure to show a causal connection by a preponderance of the evidence.

The trial court's "power to impose restitution is derived solely from statutes." State v. Enstone, 89 Wn. App. 882, 884, 951 P.2d 309 (1998), aff'd, 137 Wn.2d 675, 974 P.2d 828 (1999). Where the trial court has authority to order restitution, it has discretion to determine the amount of restitution. State v. Davison, 116 Wn.2d 917, 919, 809 P.2d 1374 (1991). Its decision will only be overturned for an abuse of discretion. Id. A court abuses its discretion when the restitution decision is "'manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons.'" Enstone, 137 Wn.2d at 679-80 (quoting State v. Cunningham, 96 Wn.2d 31, 34, 633 P.2d 886 (1981)).

Restitution is appropriate for actual expenses incurred for treatment of injuries and lost wages resulting from injury. RCW 9.94A.753(3). The restitution amount must be based on "easily ascertainable damages." Id. It must be supported by "'substantial credible evidence'" such that the trial court has a reasonable basis for estimating loss and is not relegated to mere speculation or conjecture. State v Griffith, 164 Wn.2d 960, 965, 195 P.3d 506 (2008) (quoting State v. Fleming, 75 Wn. App. 270, 274-75, 877 P.2d 243 (1994)). But, the amount need not be established with specific accuracy. Id. Restitution can only be ordered for losses that are causally connected to the crime such that, but for the charged crime, the victim would not have incurred the loss. Id. at 965-66. The State bears the burden to prove the victim's losses and the causal connection by a preponderance of the evidence. Id. at 965.

The State does not meet its burden by merely providing proof of expenditures. Dedonado, 99 Wn. App at 257. Nor does it establish a causal connection by submitting a list of medical charges and the amount paid by the Department of Social and Health

Services. Bunner, 86 Wn. App at 160. It is likewise insufficient to provide documents that include only the service provider, service date, date paid, billed amount, and amount paid. State v Hahn, 100 Wn. App. 391, 399-400, 996 P.2d 1125 (2000). In contrast, restitution is proper where the victim testifies at the restitution hearing to the connection between the injuries and the crime. State v. Blanchfield, 126 Wn. App. 235, 241-42, 108 P.3d 173 (2005). Further, restitution is proper to one victim where there is evidence of expenses accompanied by a letter that indicates the charges were incurred on the same day the crime occurred, but improper to another victim of the same crime where the medical expenses are not dated. State v. Dennis, 101 Wn. App. 223, 227-28, 6 P.3d 1173 (2000).

The State, here, provided documents that included dates, providers, billed amounts, amounts paid, and brief descriptions of medical services. The certification and the prosecutor's summary state the date of the crime, the nature of Black's injuries, and that Black required surgery. Together, the evidence establishes the expenses were incurred in close temporal proximity to the charged crime. The bulk of the bills are dated February 13, 19, and 20, within a week of the crime. Those expenses are for services such as "ANESTHESIA," "OPEN RX COMPLX CHEEK FX+G-," "SURGERY," "Room And Board," and "RECOVERY ROOM." Although the medical descriptions are cursory, they are consistent with the injuries described in the certification and the prosecutor's summary. The remaining charges included in the order of restitution were incurred one week, three weeks, and four weeks after surgery for "OUTPATIENT SERVICES . . . CLINIC." The temporal proximity to the original injury and to surgery is sufficient to link these expenses to the crime. In contrast, the trial court correctly

determined that charges from July that were described as “Op Misc. Services” were too attenuated from the date of the crime to be included in the restitution amount without more information.

The dates and descriptions of medical services in the medical bills, together with information in the certification and the prosecutor’s summary, constitute substantial credible evidence from which the trial court by a preponderance of the evidence could draw a causal connection between Danford’s crime and Black’s expenses. The trial court did not abuse its discretion.

III. Good Cause for Continuance

The sentencing court must determine the amount of restitution due at sentencing, or within 180 days of sentencing. RCW 9.94A.753(1). The court may continue the hearing beyond the 180-day period for good cause. Id. Danford argues the restitution order was entered without statutory authority because it was entered after the 180-day period without good cause.

Good cause requires an external impediment, rather than a self-created hardship, that prevents a party from complying with the statutory requirements. State v. Johnson, 96 Wn. App 813, 817, 981 P.2d 25 (1999). A party’s lack of preparation or oversight does not establish good cause. Id. For instance, there is no good cause when the State does not diligently compile documentation or even seek a hearing within the 180-day period. State v. Tetreault, 99 Wn. App 435, 437-38, 998 P.2d 330 (2000).

The State in this case acted diligently to prepare medical bills in anticipation of the March 15 restitution hearing. It properly relied on the use of the certification and

the prosecutor's summary to explain the bills. Indeed, as discussed above, the State provided sufficient evidence within the 180-day limit to show a causal connection between Danford's crime and Black's expenses. Despite the State's preparation, the trial court continued the hearing for four days in light of Danford's objection and the complicated nature of the medical bills.

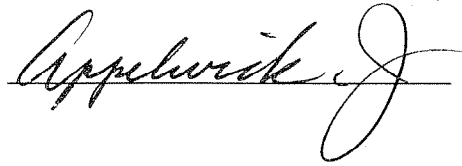
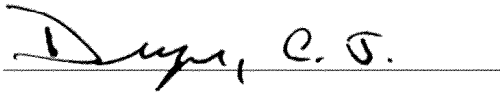
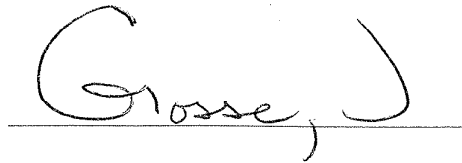
The record suggests the trial court sought clarification, not additional evidence. At the March 15 hearing, the trial court questioned the meaning of "Xs" on the claim summary. Danford noted that some medical charges seemed to be listed three times on the summary and objected that a mere list of expenses was not legally sufficient proof. The State urged the trial court to ignore the summary and look at the attached bills. The trial court indicated it would like someone to clarify the charges. Danford objected, noting the 180-day deadline. The trial court asked the prosecutor if someone in the office could assist, noting she did not plan on spending hours going through the records reconciling dates. Danford asked the court to state the basis of good cause to continue the hearing. The trial court responded that "there is enough information to certainly show that there are medical bills as a result of the incident" and "I could either accept the large amount, or I need someone to go through and explain to me exactly what amount we're looking at." The trial court asked the State to highlight certain information and do a tally. The trial court indicated there was both good cause and enough information to continue the hearing. At the March 19 hearing, the State provided two new charts that summarized evidence submitted prior to the March 15 hearing. It did not offer, or need to offer, any new evidence.

Here, the trial court determined it had enough evidence to enter a restitution

order on the full amount submitted, but it wanted clarification. The State did not seek a continuance. The trial court ordered it sua sponte. The continuance was for the benefit of the court, to aid in the analysis of the evidence already presented, not for the benefit of the State to supplement the evidence. The trial court did not continue the hearing due to a State-created hardship. Good cause existed. It was not an abuse of discretion to continue the restitution hearing two days beyond the statutory limit to clarify and summarize the record for the benefit of the court when there was sufficient evidence within the 180-day period to establish a causal connection.

We affirm.

WE CONCUR:

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