

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	No. 66305-4-I
)	
Respondent,)	DIVISION ONE
)	
v.)	
)	UNPUBLISHED OPINION
ELDEN BRIAN GRAFTENREED)	
AKA ELDON B. GRAFTENREED,)	
)	
Appellant.)	FILED: April 30, 2012

Schindler, J. — Elden Graftenreed pleaded guilty to residential burglary.

Graftenreed appeals the order of restitution, arguing that the State failed to establish a causal connection between the property damage and the charged crime. We affirm.

FACTS

Graftenreed does not contest the facts as set forth in the certification for determination of probable cause.

At approximately 11:00 a.m. on February 2, 2010, Graftenreed and Timothy Hemphill went to the home of Daniel and Shannon Beck to commit burglary. Graftenreed drove his Pontiac Grand Am up the long, steep driveway and parked his car next to the Becks' front door. Hemphill walked to the back of the house and threw a large cast iron frying pan through the glass French doors leading to a bedroom.

Meanwhile, Graftenreed broke into a camper trailer and took two fishing poles, a .22 caliber rifle, and several other items that he then placed in the trunk of the car.

Shannon Beck was working in her office above the detached garage adjacent to the house. Shannon watched as Hemphill threw the frying pan through her glass French doors, go into the bedroom, and then walk through the rest of the house. Shannon called 911.

Deputies Przygocki and Stanley responded to the 911 call. When the deputies arrived, Graftenreed was sitting in his car with the driver's side door and the trunk open. Graftenreed told Deputy Przygocki that "Tim" was in the house.

When Hemphill came out the front door, Deputy Przygocki ordered him to stop, but Hemphill turned and ran into the woods behind the house. Following his arrest, Deputy Stanley found jewelry and a watch in Hemphill's pockets.

Deputy Przygocki arrested Graftenreed and read him his Miranda¹ warnings. The Deputy found an eight-inch Kershaw Military book knife with a five-inch double serrated blade in Graftenreed's left boot and a pair of brass knuckles in his pocket. Graftenreed told Deputy Przygocki that he drove with Hemphill to the Becks' house and "assumed" they were going to break into the house to steal property. Graftenreed also admitted taking a rifle and several other items from the camper trailer.

Detective Christy Marsalisi walked through the house with Shannon to identify missing and damaged items. Shannon and Detective Marsalisi found several empty jewelry boxes. Shannon identified the jewelry and watch Hemphill took as her property. Shannon's spouse Daniel later pointed out that the 46-inch flat screen television had a

¹ Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 694 (1996).

large crack through the screen.

The State filed an information charging Hemphill and Graftenreed with one count of residential burglary and one count of theft of a firearm. Graftenreed pleaded guilty to committing the crime of residential burglary and theft of the rifle. As part of the plea agreement, Graftenreed stipulated to the “real and material facts” set forth in the certification for determination of probable cause, and agreed to pay restitution. At sentencing, the court granted Graftenreed’s request to impose a “Special Drug Offender Sentencing Alternative.” The court ordered restitution but scheduled a hearing to determine the amount.

At the restitution hearing, the State sought \$11,089.96 in restitution for property damage.² Graftenreed conceded he committed residential burglary and that it was a “joint enterprise.” However, Graftenreed’s attorney claimed he was not responsible for the property damage caused by Hemphill because Hemphill “went beyond the scope of the crime that Mr. Graftenreed intended to commit.” The court ruled that Graftenreed was “jointly and severally liable for the damage” caused during the commission of the crime, and entered an order of restitution in the amount of \$11,089.96.³

ANALYSIS

For the first time on appeal, Graftenreed claims he was not an accomplice. Graftenreed argues that the court erred by entering the order setting restitution because there is no causal connection between the crime he committed and the damage caused by Hemphill.

² The State’s documentation for the basis for restitution is not in the record.

³ On appeal, Graftenreed does not challenge the determination as to the amount of restitution.

The authority to impose restitution is statutory. State v. Griffith, 164 Wn.2d 960, 965, 195 P.3d 506 (2008). The court shall order restitution “whenever the offender is convicted of an offense which results in injury to any person or damage to or loss of property.” RCW 9.94A.753(5). In interpreting the restitution statutes, we must “recognize that they were intended to require the defendant to face the consequences of his or her criminal conduct.” State v. Tobin, 161 Wn.2d 517, 524, 166 P.2d 1167 (2007). Accordingly, the court should not engage in an overly technical construction that would permit the defendant to escape from just punishment. Tobin, 161 Wn.2d at 524. The legislature intended “to grant broad powers of restitution” to the trial court. State v. Davidson, 116 Wn.2d 917, 920, 809 P.2d 1374 (1991).

Restitution is only allowed for losses “causally connected” to the charged crime. State v. Kinneman, 155 Wn.2d 272, 286, 119 P.3d 350 (2005). “Losses are causally connected if, but for the charged crime, the victim would not have incurred the loss.” Griffith, 164 Wn.2d at 966. “In determining whether a causal connection exists, we look to the underlying facts of the charged offense.” State v. Landrum, 66 Wn. App. 791, 799, 832 P.2d 1359 (1992).

There is no requirement that a victim's damages must be foreseeable in order to impose restitution. State v. Enstone, 137 Wn.2d 675, 680, 974 P.2d 828 (1999). As our supreme court held, the restitution statutes allow the court to impose restitution for loss caused by the defendant’s criminal act without regard to foreseeability.

The State correctly observes that the aforementioned restitution statute makes no reference to a requirement that a crime victim's damages be foreseeable in order to support a restitution order. The statute simply says that restitution for “actual expenses incurred for treatment” shall be ordered “whenever the offender is convicted of an

offense which results in injury to any person.” [Former] RCW 9.94A.142(1), (2) [(1997)]. We agree with the Court of Appeals that this statute unambiguously provides a trial court with the discretion to order a defendant to pay restitution for the expenses that are caused by his or her criminal acts. This holding is not only consistent with the plain language of the statute, but also the principle that statutes authorizing restitution should be interpreted to carry out the goals of the restitution statute, one of which is to “require[] the defendant to face the consequences of his criminal conduct.” Davison, 116 Wn.2d at 922. The statute is, in short, clear and cannot be read to allow an individual to avoid paying restitution on the basis that he or she did not foresee the harmful consequences of his or her conduct.

Enstone, 137 Wn.2d at 680.⁴ Contrary to the premise of the argument on appeal, where defendants are jointly and severally responsible for the restitution, “[t]he relevant causal connection is between the damage and the committed offense, . . . not between the damage and [a defendant]’s individual offense.” State v. Hiatt, 154 Wn.2d 560, 564, 115 P.3d 274 (2005).

Here, the information charged Hemphill and Graftenreed with residential burglary and theft of a firearm. Graftenreed pleaded guilty to the crimes “as charged in the information.” In the “Felony Plea Agreement,” Graftenreed stipulated to “real facts” and to the “facts set forth in the certification(s) for determination of probable cause.” Graftenreed also expressly agreed to pay restitution “in full” to the victims.

The certification for probable cause states that Graftenreed admitted he drove Hemphill to the Becks’ house and that he “ ‘assumed’ we were going to break into the house.” Graftenreed also admitted “bringing the knife and ‘brass’ knuckles to the residence,” and stealing a rifle and other items from a camper trailer and placing them

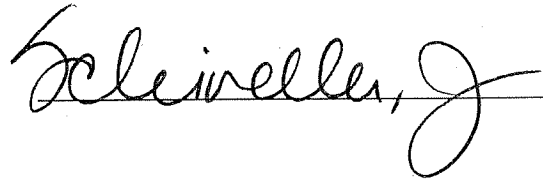
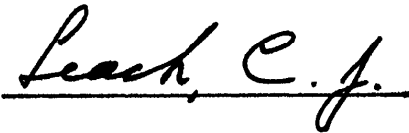
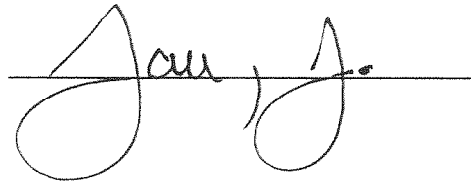
⁴ (Alteration in original.) Former RCW 9.94A.142 was recodified as RCW 9.94A.753 in 2001. The recodification did not result in a substantive change to the provisions of the RCW relevant to our analysis.

in the trunk while he waited for Hemphill. The property damage is a direct result of the crime of residential burglary. Graftenreed cannot avoid restitution based on his claim that he did not know Hemphill would cause property damage.

The court did not err in concluding Graftenreed was jointly and severally liable for the damages and entering the order of restitution.

We affirm.

WE CONCUR:

Handwritten signature of Schneider, J. in cursive script, written over a horizontal line.Handwritten signature of Leach, C. J. in cursive script, written over a horizontal line.Handwritten signature of Jau, J. in cursive script, written over a horizontal line.