

NO. 65156-1-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

RYAN DANFORD,

Appellant.

2011 FEB 11 PM 1:09

CLERK OF COURT
JULIE A. HARRIS
CLERK OF COURT

APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE CHERYL CAREY

BRIEF OF RESPONDENT

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A. ISSUES

1. A court must order restitution within 180 days of sentencing, unless it finds good cause to continue the hearing. Here, the trial court found that it had sufficient information to order the full amount of restitution prior to the deadline expiring, but found good cause to continue the hearing two days past the 180-day deadline to address concerns raised by Danford about the medical documentation. Given these circumstances, has Danford failed to show that the trial court abused its discretion by finding good cause to continue the restitution hearing?

2. A court can only order restitution for losses that are causally connected to the crime charged. Here, Danford admitted to robbing the victim and causing him bodily injury, and agreed that the court could consider the facts contained in the certification for determination of probable cause and the prosecutor's summary, detailing the victim's injuries resulting from the incident. Has Danford failed to show that the trial court abused its discretion by relying on this documentation to impose restitution for the victim's injuries?

B. STATEMENT OF THE CASE

1. PROCEDURAL FACTS

Ryan Danford pled guilty to one count of Robbery in the First Degree in exchange for the State agreeing to dismiss the second count against him alleging Assault in the Second Degree. CP 11-22. On September 18, 2009, the Honorable Cheryl Carey sentenced Danford to the low end of the standard sentencing range, 57 months in prison. CP 36-44; RP 8.¹

2. SUBSTANTIVE FACTS²

On February 13, 2009, Danford and two other co-defendants robbed Brandon Black and his friends of their cell phones and a wallet. CP 3. By the time police arrived, Black's left eye was swollen shut and blood was coming out of his nose and the back of his head. CP 3. Black was unable to talk with police. CP 3. Emergency medical personnel treated Black at the scene and transported him to St. Francis Hospital. CP 3.

¹ The Verbatim Report of Proceedings consists of one volume, which will be referred to herein as "RP."

² The facts of the robbery are taken from the certification for determination of probable cause and the prosecutor's summary, based on Danford's stipulation to them as part of the felony plea agreement. CP 33.

Five days later, Black received reconstructive surgery at Harborview Medical Center for a broken orbital socket. CP 4. Doctors inserted four metal plates in Black's face. CP 9. As a result of the incident, Black suffered seven broken facial bones and lost feeling in half of his face due to his sinuses being crushed. CP 9.

Danford told police that he punched Black twice and took someone's cell phone from the ground. CP 6. In his guilty plea, Danford admitted to unlawfully taking Black's personal property, "by striking him with fists and kicking him," and to causing Black bodily injury. CP 20. Judge Carey sentenced Danford on September 18, 2009. CP 40. Based on this date, the 180-day deadline to impose restitution expired on March 17, 2010. RP 14.

Following sentencing, the State sought to determine the extent of Black's lost property and personal injury claims. The State compiled over 40 pages of documentation detailing the cost of Black's cell phone, medical bills, and lost wages. CP 74-76,

79-117. The State forwarded the documentation to Danford on February 22, 2010.³ CP 67.

At the restitution hearing on March 4, 2010, Danford filed a brief in opposition to the State's request for restitution.⁴ CP 45-46. Danford challenged the causal connection between the "various summaries of medical expenses" and the charged incident, and specifically questioned the charges arising after the date of the incident and occurring at hospitals other than St. Francis. CP 46. The State moved to continue the restitution hearing within the 180-day deadline to March 15, 2010. CP 68.

At the March 15 hearing, the State sought clarification of the medical bills being disputed.⁵ RP 10. Danford indicated that he disputed all of Black's medical expenses based on the lack of a nexus between the services provided and the robbery. RP 11-12. After the court expressed concern at being able to make sense of the stacks of medical bills and insurance documentation, the State

³ Although it is unclear from the record whether all of the documentation was forwarded, it is clear that Danford received documentation of Black's medical expenses based on the reference to the "various summaries of medical expenses" in his brief filed March 4, 2010 opposing restitution. CP 46.

⁴ There is no audio recording of the March 4, 2010 restitution hearing.

⁵ Danford agreed to pay the amount sought for Black's cell phone and lost wages. RP 12.

pointed out specific bills for Black's ambulance charges, laboratory work, emergency room services, and anesthesia costs. RP 13.

The State argued that the certification for determination of probable cause linked Black's medical expenses to injuries he sustained during the robbery. RP 13.

The court reiterated its concern at being able to fully interpret the medical documentation, stating:

Well there are – there certainly is information here from which I have to (INAUDIBLE) and draw some conclusions. But, you know, I get that **there is enough information to certainly show that there are medical bills as a result of the incident** that occurred on (INAUDIBLE) but it's difficult for this court – **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.** But I do think that there are some (INAUDIBLE) certainly information worth working for that could allow this court (INAUDIBLE) to go through and come up with a number that I thought would (INAUDIBLE) . . . **I think there's good cause and I think there is enough information,** but from where it stands I can't tell you and since this is a issue for the victims (INAUDIBLE).

RP 15-16 (emphasis added). Based on the court's reservations, the State moved to briefly continue the hearing and asked the court to find good cause if necessary to continue the hearing beyond the 180-day deadline. RP 15. Although Danford objected to the continuance, the court found good cause and continued the

restitution hearing to March 19, 2010, two days past the 180-day deadline. RP 14, 16.

On March 16, 2010, the State's Victim Assistance Unit provided the court and Danford with a memo further explaining the restitution being sought and two charts summarizing the previously provided medical documentation. CP 71, 77-78. Each chart broke down the stack of medical bills and organized them by the date Black received a medical service, the provider, the total amount charged, the portion paid by insurance, and the balance owed by Black. CP 77-78.

At the March 19 hearing, the court indicated that the additional information "helped me really to understand" and enabled the court to check "each and every one of the insurance paid items" and "account for everything." RP 18, 21-22. The State explained that it was not possible to have someone testify from one of the hospitals given "HIPA[A],"⁶ which protects patients' privacy. RP 18. Danford renewed his objection to the medical expenses, but stated, "I agree that the cert[ification] certainly documents a need for some medical treatment." RP 19. Danford specifically

⁶ HIPAA is the acronym for the Health Insurance Portability and Accountability Act of 1996. See <http://www.hhs.gov/ocr/privacy/>.

objected to the court considering the State's bail request contained in the prosecutor's summary, documenting Black's seven broken facial bones and crushed sinuses. RP 20-21.

Although the court called the medical documentation "terrible," the court ultimately found that it was sufficient based on the nature of Black's injuries and the bills substantiating the medical care provided, the amounts charged by the hospital, and reimbursements by insurance. RP 30. The court found that a nexus existed between the robbery and Black's medical expenses incurred on the date of the incident and the following month. RP 21-22, 30. The court did not find a nexus to support ordering restitution for Black's medical expenses incurred months after the incident, on July 4, 2009. RP 22, 30-31. Consequently, the court ordered restitution to Black in the amount of \$8,822.47⁷ and restitution to Ingenix Subrogation Services in the amount of \$37,503.85. CP 63.

⁷ This award represents \$399.99 for Black's stolen cell phone, \$2,039.18 in lost wages, and \$6,383.30 in out-of-pocket medical expenses. CP 74, 76, 78.

C. ARGUMENT

1. THE TRIAL COURT PROPERLY FOUND GOOD CAUSE TO CONTINUE THE RESTITUTION HEARING TWO DAYS PAST THE STATUTORY DEADLINE.

Danford argues that the trial court erred by finding good cause to continue the restitution hearing two days beyond the 180-day statutory deadline. Danford contends that the State failed to prepare for the March 15 hearing and that the State's lack of preparation was a "self-created hardship," rather than an "external impediment" warranting a continuance. *Appellant's Br.* at 12.

Danford is mistaken. Although the trial court had sufficient information to order the full amount of restitution at the March 15 hearing, the court continued the hearing two days past the 180-day deadline to address Danford's concerns about the medical documentation. Given these circumstances, Danford cannot show that the trial court abused its discretion by seeking additional clarification of the victim's medical bills.

The Legislature has granted trial courts broad power to order restitution. State v. Tobin, 161 Wn.2d 517, 524, 166 P.3d 1167 (2007). Whenever a defendant is convicted of a crime that results in personal injury or property loss, the court must order restitution.

RCW 9.94A.753(5). The restitution statute affords victims "legal protections at least as strong as those given criminal defendants." State v. Gonzalez, 168 Wn.2d 256, 265, 226 P.3d 131 (2010). The plain language of the statute, providing for awards up to double the offender's gain or the victim's loss, affirms the Legislature's intent that trial courts have wide discretion to order restitution. State v. Davison, 116 Wn.2d 917, 920, 809 P.2d 1374 (1991).

A trial court's authority to impose restitution is solely statutory. Id. at 919. Unless the court exceeds that authority, its decision will be upheld on appeal unless it is an abuse of discretion.⁸ Id. A court abuses its discretion only when the court's decision is "manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons." State v. Enstone, 137 Wn.2d 675, 679-80, 974 P.2d 828 (1999) (citations omitted).

⁸ Danford argues incorrectly that the "timeliness of a restitution order is an issue of statutory construction," requiring *de novo* review. *Appellant's Br.* at 9. Although issues of statutory interpretation are reviewed *de novo*, motions to continue based on good cause are reviewed for an abuse of discretion. Compare Gonzalez, 168 Wn.2d at 262 (construing the meaning of "amount" in the restitution statute and applying *de novo* review), with State v. Flinn, 154 Wn.2d 193, 201, 110 P.3d 748 (2005) (applying abuse of discretion standard to the trial court's good cause finding to continue the trial date), and State v. Roberts, 77 Wn. App. 678, 684-84, 894 P.2d 1340 (1995) (applying same standard to the trial court's good cause finding to continue sentencing).

Although the Legislature has afforded trial courts broad powers to impose restitution, the Legislature has also set limits on when restitution may be ordered. The court must order restitution within 180 days of sentencing, unless the court finds good cause to continue the hearing. RCW 9.94A.753(1); State v. Krall, 125 Wn.2d 146, 881 P.2d 1040 (1994) (statutory deadline is mandatory, not discretionary).

While the Legislature has not defined "good cause," courts have generally interpreted "good cause" to require the party seeking the continuance to show that an "external impediment" prevented the party from complying with statutory requirements, rather than a "self-created hardship," inadvertence, or attorney oversight. State v. Reed, 103 Wn. App. 261, 265 n.4, 12 P.3d 151 (2000); State v. Johnson, 96 Wn. App. 813, 817, 981 P.2d 25 (1999). This Court has suggested that, prior to the 180-day deadline expiring, the State should move to continue a restitution hearing for good cause to enable the court to consider (1) the State's diligence in procuring necessary evidence for the hearing, (2) the length and reason for the delay, (3) the defendant's assertion of his right to speedy sentencing, and (4) the extent of

prejudice to the defendant. State v. Tetreault, 99 Wn. App. 435, 438, 998 P.2d 330 (2000).

Here, the State properly moved to continue Danford's restitution hearing prior to the 180-day deadline expiring. RP 15. Although the trial court did not explicitly consider the Tetreault factors, they are equally helpful on review when determining whether the trial court abused its discretion in finding good cause to continue the restitution hearing two days beyond the 180-day deadline.

Contrary to Danford's claims, the State diligently prepared for the March 15 hearing. After sentencing, the State compiled comprehensive documentation of Black's personal injury and property loss claims. CP 74-76, 79-117. The State provided Danford with Black's medical bills prior to the March 4 hearing. CP 67. On March 4, Danford filed a short, one-and-a-half page brief generally challenging the State's proof of causal connection and specifically challenging the charges stemming from "different dates" and involving "other doctors and hospitals" than St. Francis Hospital, where Black was brought on the date of the incident. CP 45-46. Although there is no audio recording of the March 4

hearing, the State likely moved to continue it based on Danford's brief filed that day disputing restitution. CP 45, 68.

The State began the March 15 hearing by seeking clarification of the medical bills being disputed by Danford. RP 10. Given Danford's primary focus in his briefing on the charges incurred after the incident, the State reasonably thought that Danford might not be challenging the medical expenses incurred by Black on the date of the incident. RP 15. Further, Danford admitted in his plea agreement to causing Black bodily injury. CP 20. When it became clear, however, that Danford disputed the nexus for *all* of Black's medical expenses, the State pointed to specific bills for Black's ambulance ride, emergency room visit, laboratory work, and anesthesia costs. RP 13.

Danford wrongly claims that the State's failure to provide a witness to establish a causal connection or explain the medical billing at the March 15 hearing was a "self-created hardship." The court actually found that the State had provided "enough information" to show that Black incurred medical expenses, and that the court could "accept the large amount." RP 16. Nonetheless, the court briefly continued the restitution hearing to

address Danford's concerns and to have someone "go through and explain . . . exactly what amount we're looking at." RP 16.

The facts of this case are in stark contrast to other cases where courts have vacated restitution orders based on a lack of good cause to continue a restitution hearing beyond the 180-day deadline. See Tetreault, 99 Wn. App. at 437-38 (vacating order because State failed to obtain insurance documentation of the victim's medical expenses, note a restitution hearing, or seek a continuance within the 180-day deadline); Johnson, 96 Wn. App. at 817 (holding Department of Corrections' failure to transport the defendant, resulting in a restitution hearing 235 days after sentencing, was not an external impediment); Reed, 103 Wn. App. at 264-65 (holding Department of Corrections' transport of the defendant to another facility, resulting in a restitution hearing outside the 180-day deadline, was not an external impediment).

Here, the State obtained Black's medical bills and insurance documentation, provided them to the court and counsel, and set two restitution hearings before the 180-day deadline expired. When the court sought additional clarification of information provided by the State, specifically Black's medical bills and insurance documentation, the State's Victim Assistance Unit

prepared an explanatory memo and two charts breaking down each of Black's medical claims into the date of service, the provider, the amount paid by insurance, and the remaining balance. CP 71, 77-78. The State provided the memo and charts to Danford and the court the day after it was requested, which was one day prior to the 180-day deadline expiring. CP 71. Danford cannot claim that the State failed to diligently procure the necessary evidence to seek restitution prior to the 180-day deadline expiring.

Applying the other Tetreault factors confirms that the trial court did not abuse its discretion in finding good cause to continue the restitution hearing. The court continued the hearing to March 19, 2010, two days after the 180-day deadline expired, based on concerns made clear by Danford at the March 15 hearing. Although Danford asserted his right to a timely determination of restitution, he cannot show that he was prejudiced by a short, *two-day* continuance to address concerns that he clarified only days prior. Given this record, Danford cannot show that the trial court abused its discretion in finding good cause to continue the restitution hearing two days past the 180-day deadline.

2. THE TRIAL COURT PROPERLY FOUND A CAUSAL CONNECTION BETWEEN THE VICTIM'S MEDICAL EXPENSES AND THE CHARGED OFFENSE.

Danford argues alternatively that the State failed to prove a causal connection between the robbery and Black's medical expenses incurred after the date of the incident.⁹ Danford wrongly claims that he did not agree to the court considering the certification for determination of probable cause when determining restitution, and that the trial court erred by considering it and the prosecutor's summary to impose restitution. The court properly relied on both documents given that Danford stipulated to the court considering them as part of his felony plea agreement. Further, Danford cannot show that the trial court abused its discretion by ordering restitution in light of Black's substantial injuries and the detailed documentation of his medical expenses.

As discussed above, the court has broad discretion to impose restitution and the court's order will be upheld on appeal absent an abuse of discretion. Davison, 116 Wn.2d at 919. The State must prove the amount of restitution by a preponderance of

⁹ On appeal, Danford does not dispute the medical expenses incurred by Black on the date of the incident. *Appellant's Br.* at 19. This accounts for \$100.00 of the restitution awarded to Black and \$1,855.49 of the restitution awarded to Ingenix Subrogation Services. CP 78.

the evidence. Tobin, 161 Wn.2d at 524. Although the amount must be based on "easily ascertainable damages," the claimed loss "need not be established with specific accuracy." RCW 9.94A.753(3); State v. Griffith, 164 Wn.2d 960, 965, 195 P.3d 506 (2008). Evidence is sufficient if it "affords a reasonable basis for estimating loss and does not subject the trier of fact to mere speculation or conjecture." Griffith, 164 Wn.2d at 965. The court can only order restitution for losses that are "causally connected" to the crimes charged. Id. "Losses are causally connected if, but for the charged crime, the victim would not have incurred the loss." Id. at 966.

Contrary to his claims, Danford did not object to the court considering the certification for determination of probable cause for purposes of restitution. Rather, Danford stated, "**I agree that the cert[ification] certainly documents a need for some medical treatment.**" RP 19 (emphasis added). Danford mischaracterizes the record by repeatedly arguing that he objected to the court's consideration of the certification at the March 19 hearing. See Appellant's Br. at 6-7, 16, and 17 (all citing RP 21, where defense counsel objected to the consideration of the State's bail request

contained in the prosecutor's summary).¹⁰ Danford never objected to the court relying on the certification, either in his briefing or at the two restitution hearings.

Moreover, Danford *agreed* that the court could consider both the certification and the prosecutor's summary for purposes of sentencing as part of his signed, felony plea agreement. CP 33. Danford is bound by the terms of this agreement, despite his attempts to avoid it by drawing a "distinction between acknowledging facts for purposes of sentencing and purposes of restitution." *Appellant's Br.* at 17. Danford's reliance on State v. Bunner for this proposition is misplaced given its inapposite facts and limited holding. 86 Wn. App. 158, 936 P.2d 419 (1997). Further, the distinction that Danford proposes runs counter to established case law recognizing that restitution is an integral part of sentencing.

In Bunner, the State conceded that it produced insufficient evidence of a causal connection at the restitution hearing, but urged the court to affirm the restitution order based on information produced at sentencing in the defendant's presence

¹⁰ Danford objected to the court's consideration of the State's bail request, mistakenly believing that it was not part of his guilty plea. RP 21. Danford, however, stipulated to it as part of the felony plea agreement. CP 33.

investigation (PSI) report. Id. at 159. The court refused to consider the PSI because the State did not present it at the restitution hearing, and therefore the defendant never had an opportunity to rebut or challenge it. Id. at 159, 161. The court explicitly rejected the State's argument that the defendant had acknowledged the PSI for purposes of restitution, when the defendant failed to object to it at sentencing. Id. at 161. Without the PSI to consider, the court held that a causal connection did not exist and reversed the restitution order. Id. at 162.

Danford's attempts to extend Bunner's holding should be rejected. Bunner stands for the unassailable principle that a reviewing court will consider only the information before the trial court in determining whether restitution was properly imposed.¹¹ Id. at 162. The court's recognition that defendants are not required to object at sentencing, to materials that could be later used at a restitution hearing, does not negate the *parties' agreement in this case* that the court *could* consider the certification and prosecutor's summary for purposes of sentencing, which includes restitution.

¹¹ The court phrased its holding as follows: "In conclusion, we do not consider the PSI because it was not properly submitted below. And without it, the State's evidence is insufficient to connect the costs incurred with the crime." Bunner, 86 Wn. App. at 161.

Danford cites no authority besides Bunner for the proposition that an agreement to consider materials for purposes of sentencing does not include considering them for purposes of restitution.

Indeed, the restitution statute is contained within the Sentencing Reform Act of 1981 (SRA). See RCW 9.94A.753. Courts have long recognized that "[r]estitution is an integral part of sentencing." State v. Dedonado, 99 Wn. App. 251, 257, 991 P.2d 1216 (2000). "In determining any sentence, including restitution, the sentencing court may rely on no more information than is admitted by the plea agreement." Id. at 256; see also RCW 9.94A.530(2) (codifying the "real facts" doctrine).

When defendants have agreed that the facts contained in the certification are "real facts" for purposes of sentencing, courts have assumed that the facts are admitted for purposes of restitution. See Dedonado, 99 Wn. App. at 253 (drawing the factual basis for the restitution order from the certification based on the defendant's plea agreement to "real facts"); State v. Tindal, 50 Wn. App. 401, 402-03, 748 P.2d 695 (1988) (concluding that the amount of credit card loss listed in the certification "becomes fact" for purposes of restitution when incorporated by reference in the defendant's plea agreement to "real facts").

Here, Danford explicitly stipulated that the "facts set forth in the certification(s) for determination of probable cause and prosecutor's summary" are "real and material facts for purposes of sentencing." CP 33. Danford's characterization of the stipulation as ambiguous because it appears in a separate paragraph than the agreement to pay restitution, is meritless given the case law to the contrary. If Danford had intended to object to the facts contained in the certification and the prosecutor's summary for purposes of restitution, then he should have crossed out the stipulation to "real facts." Instead, Danford signed the felony plea agreement – with the box checked stipulating to "real facts" – and received the benefit of the plea bargain, which included having the second degree assault charge against him dismissed. CP 33.

The trial court properly considered the certification and the prosecutor's summary for purposes of determining whether the State provided sufficient evidence of a causal connection to impose restitution. Although this Court should consider both documents

based on Danford's stipulation to them in the felony plea agreement, there is sufficient evidence in the certification alone for the Court to find that a causal connection existed between the robbery and Black's medical expenses following the incident.

According to the certification and his statement on plea of guilty, Danford punched Black twice and kicked him, causing bodily injury. CP 6, 20. When police arrived, Black's left eye was swollen shut, he had blood coming out of his nose and the back of his head, and he was unable to talk with police. CP 3. Five days later, Black was at Harborview Medical Center (HMC) for reconstructive surgery of his orbital socket, broken during the robbery. CP 4.

Prior to the restitution hearing, the State submitted pages of medical bills and insurance "claim details," all in Black's name, documenting the care that he received at HMC in the month following the incident. CP 76, 79-104. The chart below summarizes the information provided to the court regarding the disputed charges:

CP	DATE	PROVIDER	DESCRIPTION OF SERVICES ¹²	AMOUNT CHARGED	INSURANCE PAID	BLACK OWES
90	2/19/09	HMC	Anesthesia	\$812.50	\$575.00	\$0
102, 104	2/19/09	A. Grabinsky, MD	HMC Anesthesia Open Rx Complx Chee*	\$2,375.00	\$456.72	\$389.88
103-04	2/19/09	J. Fink, MD	HMC Inpatient Radiology Services CT Maxillofacial area w/o*	\$300.00	\$0	\$174.30
85-86	2/19/09	R. Hopper, MD	Surgery Open Rx Complx Cheek Fx+G-	\$3,199.74	\$0	\$3,199.74
93-94	2/19 - 2/20/09	HMC	Room and Board Pharmacy, Non-Ster Supply, Sterile Supply, Supply/Implants, CT scan, OR services, Anesthesia, Clinic, Drugs/Detail code, Recovery Room	\$45,196.37	\$34,551.64	\$2,509.38
97-98	2/26/09	HMC	Outpatient Services Clinic	\$136.34	\$20.00	\$5.00
95-96	3/11/09	HMC	Outpatient Services Clinic	\$136.34	\$20.00	\$5.00
91-92	3/17/09	HMC	Outpatient Services Clinic	\$172.32	\$25.00	\$0
TOTAL					\$35,648.36	\$6,283.30

Although the descriptions of Black's medical services are truncated by abbreviations and medical shorthand, the information as a whole provides a reasonable basis from which the court could determine Black's loss. The dates, location, and description of medical services provided to Black correspond with the facts in the certification that on February 18, 2009, Black was at HMC to

¹² All descriptions are quoted verbatim from the medical bills and claim details.

receive reconstructive surgery on his broken orbital socket. The fact that Black was actually admitted for surgery a day later is of little consequence given that Black likely went to HMC on February 18 for a pre-operative visit, and given the preponderance of the evidence standard for restitution requiring only a "reasonable basis for estimating loss," rather than "specific accuracy." Griffith, 164 Wn.2d at 965.

Black's medical bills for items such as anesthesia, radiology, supplies, implants, operating room services, the recovery room, and outpatient clinic services,¹³ are all reasonable costs associated with a major surgery involving the reconstruction of the facial bone encasing the eye. Danford has never objected that Black's medical expenses were unreasonably high or unnecessary; rather, Danford's objection below and on appeal is that the State failed to prove a causal connection existed between the robbery and Black's medical care. Black, however, never would have had reconstructive surgery "but for" the robbery committed by Danford a week earlier. Danford has never suggested that Black required

¹³ The trial court reasonably assumed that Black's three medical bills for outpatient clinic services were follow-up visits in the month after his surgery, given the nature of the surgery and the clinic's location at the same hospital where the surgery occurred.

facial reconstructive surgery for some reason other than the robbery.

Danford's attempts to analogize the facts of this case to other cases where courts have found medical documentation insufficient to prove a causal connection are unpersuasive. In Bunner, one of the two cases relied on by Danford, the trial court admitted that it had "no idea" how the documentation established a causal relationship between the victim's medical bills and the defendant's crime, and the State conceded on appeal that the documentation was insufficient to establish a causal connection. 86 Wn. App. at 160.

The second case relied upon by Danford, State v. Hahn, is equally inapposite. 100 Wn. App. 391, 996 P.2d 1125 (2000). In Hahn, the court reversed a restitution order based on the lack of a "statement linking the charged amounts to any particular symptoms or treatments." Id. at 399-400. The court held that the medical documentation was insufficient to establish a causal connection because it "merely state[d] the name of the service provider, the service date, date paid, billed amount and amount paid." Id. at 400.

In contrast, the medical documentation here contained *descriptions* of the medical services provided, and the certification

established the factual basis necessitating the services. The facts of this case are more akin to State v. Dennis, where the court upheld a restitution order based on the facts in the certification that the victim sustained an injury from the assault and received hospital treatment, combined with the facts in a letter from workers' compensation stating that the victim received treatment at the same hospital on the same day. 101 Wn. App. 223, 228, 6 P.3d 1173 (2000).

The trial court carefully reviewed the certification, prosecutor's summary, medical bills, and insurance documentation to determine that a causal connection existed linking Black's injuries from the robbery to his claimed medical expenses. Although the trial court acknowledged having sufficient information on March 15 to impose restitution, the court briefly continued the hearing to seek a better understanding of the medical documentation. Upon receiving the memo and charts summarizing the previously provided information, the court checked "each and every one of the insurance paid items" and "account[ed] for everything." RP 21-22. The court refused to order restitution for the medical expenses arising months after the incident. RP 21-22, 30. Given this record, Danford cannot show that the trial court

abused its discretion by imposing restitution for Black's injuries resulting from the robbery.

D. CONCLUSION

For the foregoing reasons, the Court should affirm the trial court's restitution order.

DATED this 14th day of February, 2011.

Respectfully submitted,

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Office WSBA #91002

Certificate of Service by Mail

Today I deposited in the mail of the United States of America, postage prepaid, a properly stamped and addressed envelope directed to Elaine L. Winters, the attorney for the appellant, at Washington Appellate Project, 701 Melbourne Tower, 1511 Third Avenue, Seattle, WA 98101, containing a copy of the Brief of Respondent, in STATE V. RYAN DANFORD, Cause No. 65156-1-I, in the Court of Appeals, Division I, for the State of Washington.

I certify under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

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Name
Done in Seattle, Washington

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Date