

No. 47962-1-II
(consolidated)

THE COURT OF APPEALS FOR THE STATE OF WASHINGTON
DIVISION II

STATE OF WASHINGTON,

Respondent,

vs.

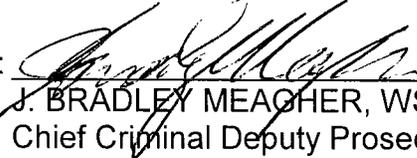
TERRY SIMMONS AND JOANNE SIMMONS

Appellants.

Appeal from the Superior Court of Washington for Lewis County

Respondent's Brief

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TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

ARGUMENT.....1

 A. RCW 9A.20.030 and RCW 16.52.200 should be
 read together.....1

CONCLUSION.....2

TABLE OF AUTHORITIES

Washington Cases

State v. Deskins, 180 Wn.2d 68, 322 P.3d 780 (2014).....1, 2

State v. Griffith, 164 Wn.2d 960, 195 P.3d 506 (2008).....2

State v. Harris, 181 Wn.App. 969, 327 P.3d 1276 (2014).....2

Washington Statutes

RCW 9.94A.753(3).....1

RCW 9A.20.030.....1, 2

RCW 9A.74.753.....1

RCW 16.52.200.....1, 2

I. ARGUMENT

A. RCW 9A.20.030 and RCW 16.52.200 should be read together.

Appellant is mistaken; the statute that allows for the doubling of fines for misdemeanors is RCW 9A.20.030, not RCW 9A.74.753. While it is true the Superior Court in this case did not specify the statute it was relying on, the obvious legal authority for doubling restitution in misdemeanor convictions is RCW 9A.20.030.

Nevertheless, the State has been unable to find any statutory authority or case law directly on point that extends the doubling of restitution under RCW 9A.20.030 to RCW 16.52.200. But consider that *State v. Deskins*, cited by the Appellant, appears to use both statutes together. *State v. Deskins*, 180 Wn.2d 68, 81, 322 P.3d 780 (2014).

Deskins was convicted of four misdemeanors, one of which was cruelty to animals under RCW 16.52. *State v. Deskins*, 180 Wn.2d at 74 (2014). As part of the judgment and sentence, restitution was ordered. *State v. Deskins*, 180 Wn.2d at 75 (2014). Restitution was ordered for both the loss to owner of the mauled dog and to Stevens County who had to care for other animals seized from the defendant's property. *State v. Deskins*, 180 Wn.2d at 75 (2014).

In the Washington Supreme Court opinion, RCW 9A.20.030 and RCW 16.52.200 were mentioned together in the following paragraph:

“The authority to impose restitution is statutory. *State v. Griffith*, 164 Wn.2d 960, 965, 195 P.3d 506 (2008). Under RCW 9A.20.030(1), a trial court may impose restitution to repay victims of crime for their loss. Under former RCW 16.52.200(4), a trial court may impose restitution to repay “reasonable costs incurred pursuant to this chapter by law enforcement agencies, animal care and control agencies, or authorized private or public entities involved with the care of the animals.” *State v. Deskins*, 180 Wn.2d at 81 (2014).

RCW 16.52.200(4) has been recodified as 16.52.200(6).

Statutes should be read together to promote justice. There is a strong public policy toward favoring restitution. *State v. Harris*, 181 Wn.App. 969, 974, 327 P.3d 1276 (2014). Given this strong public policy, there is no reason to impose a narrow definition to the term “victim.” *State v. Harris*, 181 Wn.App. at 974, 327 P.3d 1276 (2014).

The whole purpose of RCW 16.52.200(6) is to prevent convicted defendants from escaping a restitution obligation. Without RCW 16.52.200(6), an injustice would occur because those who care for abused animals are not, technically speaking, “victims.” RCW 16.52.200 expands the list of “victims” to include those who experience monetary loss by caring for abused animals. The whole statutory scheme is designed to promote justice and fair

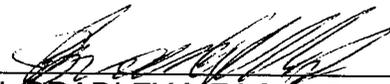
compensation to those who are tasked with the care, feeding and medical attention required to nurse an abused animal back to health.

II. CONCLUSION

The Court should read these two statutes together in order to promote justice, such that RCW 16.52.200 sets the restitution amount, and RCW 9A.20.030 allows for the doubling of that amount.

RESPECTFULLY submitted this 26 day of February, 2016.

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CERTIFICATE OF SERVICE

The undersigned certifies that on February 26, 2016 that the foregoing document was uploaded and sent via JIS Link, to David Ponzoha, Clerk of the Court, Court of Appeals, Division II, and which in turn emailed a copy to the Appellant's attorney Lisa E. Tabbut at ltabbutlaw@gmail.com and nelsond@nwattorney.net

This statement is certified to be true and correct under penalty of perjury of the law of the State of Washington.

Signed this 26th day of Feb., 2016 in Chehalis, Washington.


Casey L. Mauermann
Sr. Paralegal

LEWIS COUNTY PROSECUTOR

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