

No. 30440-0-III
IN THE COURT OF APPEALS
FOR THE STATE OF WASHINGTON
DIVISION III

FILED
June 18, 2012
Court of Appeals
Division III
State of Washington

STATE OF WASHINGTON,

Plaintiff/Respondent,

vs.

JUAN L. APARICIO MARTINEZ,

Defendant/Appellant.

APPEAL FROM THE DOUGLAS COUNTY SUPERIOR COURT
Honorable John Hotchkiss, Judge

BRIEF OF APPELLANT

SUSAN MARIE GASCH
WSBA No. 16485
P.O. Box 30339
Spokane, WA 99223-3005
(509) 443-9149
Attorney for Appellant

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A. ASSIGNMENTS OF ERROR

1. The trial court erred in ordering Mr. Martinez to pay restitution.
2. The record does not support the finding that Mr. Martinez has the current or future ability to pay Legal Financial Obligations, including restitution.

Issues Pertaining to Assignments of Error

1. Did the trial court err in imposing restitution because the court did not advise Mr. Martinez about the possible imposition of restitution when the pleas were entered?
2. Should the finding that Mr. Martinez has the current or future ability to pay Legal Financial Obligations including restitution be stricken from the Judgment and Sentence as clearly erroneous, where it is not supported in the record?

B. STATEMENT OF THE CASE

Seventeen-year-old Juan L. Aparicio Martinez helped others enter a home illegally and stole some property. He was automatically declined to adult court because of the First Degree Burglary charge. CP 21, 135. On an amended information, Mr. Martinez plead guilty to residential burglary and entered Alford¹ pleas to charges of theft in the first degree

¹ North Carolina v. Alford, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970).

and theft of a firearm. CP 26; RP 107–08. Before accepting the plea, the court advised Mr. Martinez the high end of standard range sentences for the offenses were 14 months, 9 months and 27 months, respectively. RP 106. The court did not mention the possibility restitution could be ordered as a result of the plea. *See* RP 104–09.

Paragraph 6(e) of “Statement of Defendant on Plea of Guilty” advised Mr. Martinez that restitution might be imposed if the crime resulted in injury to a person or property:

In Considering The Consequences Of My Guilty Plea, I Understand That:

...

In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees and the costs of incarceration

CP 15, ¶ 6(e).

At the sentencing hearing, the prosecutor recommended 22 months of incarceration with all counts to run concurrently, saying this was in line with sentences imposed on the three co-defendants and took into account Mr. Martinez' lack of any criminal history. RP 133–34. Defense counsel acknowledged that the chance of stipulating to 22 months was part of the

plea agreement. RP 135. Counsel asked that restitution be reserved until the court issued a ruling on the legal challenge to imposition of restitution that was recently heard upon motion by one of the co-defendants. RP 134–35.² The court imposed 22 months of incarceration, ordered Mr. Martinez to pay \$2,212 in fines/fees/costs, and scheduled a restitution hearing for a later date. CP 29–30; RP 136–40.

Apparently no actual restitution hearing was held. At a presentment hearing, Commissioner Anthony DiTommaso signed an Order Establishing Restitution. RP 141. The court’s order mirrored its findings, setting a total amount of restitution owed at \$26, 019.82, payable as specified to an insurance company and a couple named Herrejon, to be paid joint and severally by three individuals *other* than Mr. Martinez. CP 35–36. The order required minimum monthly payments of \$50.00 per month, beginning immediately. CP 36. Similar orders were entered in the Douglas County court files of the three co-defendants, substituting Mr. Martinez’ name in as one of the persons who was to pay the restitution amount “jointly and separately”. Copies of the orders of restitution orders for Mr. Martinez, Edgar M. Jimenez-Arteaga, Jorge Alexius Corrales

Bejar and Fredy Avila-Villasenor are attached to this brief as Appendix A.³

As part of the Judgment and Sentence, the court made the following finding:

¶ 2.5 Ability to Pay Legal Financial Obligations. The Court has considered the total amount owing, the defendant's past, present, and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The Court finds that the defendant has the ability or likely future ability to pay the financial obligations imposed herein. RCW 9.94A.753 [sic].

CP 29 (bolding in original).

This appeal followed. CP 37–39.

C. ARGUMENT

1. The trial court erred in imposing restitution because the court did not advise Mr. Martinez about the possible imposition of restitution when the pleas were entered, and the order must be reversed.

A court does not have inherent power to impose restitution; the authority to impose restitution is derived from statute. State v. Tracy, 73

² The restitution hearing in State v. Edgar M. Jimenez-Arteaga, Douglas County Superior Court No. 11-1-00028-5, was held on October 10, 2011, and is contained in the verbatim report of proceedings in this appeal at RP 111–32.

³ Mr. Martinez' Order Establishing Restitution is found at CP 35–36. A supplemental designation of clerk's papers has been filed regarding the other three orders, for Mr. Jimenez-Arteaga, Mr. Bejar and Mr. Avila-Villasenor.

Wn. App. 386, 388, 869 P.2d 425 (1994), citing State v. Davison, 116 Wn.2d 917, 919, 809 P.2d 1374 (1991). Restitution may be ordered as a condition of a sentence when

the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement ...

RCW 9.94A.753(5) (emphasis added).

The payment of restitution is a direct consequence of entering a plea. Tracy, 73 Wn. App. at 388, citing State v. Cameron, 30 Wn. App. 229, 233, 633 P.2d 901, *rev. denied*, 96 Wn.2d 1023 (1981). Therefore, a “sentencing court may not impose restitution upon a defendant who pleads guilty, unless defendant is advised of that possibility prior to entering his plea.” Tracy, 73 Wn. App. at 388, citing Cameron, at 234; State v. Raleigh, 50 Wn. App. 248, 253, 748 P.2d 267, *rev. denied*, 110 Wn.2d 1017 (1988) (before entering a plea of guilty, the defendant must be advised of all the direct consequences of his plea, including the possibility of restitution) and referring also to State v. Miszak, 69 Wn. App. 426, 848 P.2d 1329 (1993) (court vacates order of restitution because there was no evidence defendant had agreed to pay restitution for the uncharged counts—that is, defendant had not agreed to pay for more than that to which she admitted taking).

Here, the court did not inform Mr. Martinez of the possibility of restitution prior to accepting his pleas. At the sentencing phase of the hearing, no mention was made of restitution. Mr. Martinez' pleas were otherwise voluntary and were accepted by the court. RP 108–09.

Paragraph 6(e) of “Statement of Defendant on Plea of Guilty” advised Mr. Martinez that restitution might be imposed if the crime resulted in injury to a person or property:

In Considering The Consequences Of My Guilty Plea, I Understand That:

...

In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees and the costs of incarceration

CP 15, ¶ 6(e).

The court in Tracy, noting a similar provision in Mr. Tracy’s statement of defendant on plea of guilty, concluded that it did not override the requirements of advising a defendant prior to entering his guilty plea of the possibility that restitution might be imposed (Tracy, 73 Wn. App. at 388, citing Cameron, at 234) and that “the offender ... *agrees* with the prosecutor's recommendation that [he] be required to pay restitution”

(RCW 9.94A.753(5)). As in Tracy, prior to entering his plea Mr. Martinez was neither advised of the possibility of restitution nor did he agree that restitution might be ordered. The appropriate remedy is to strike the order of restitution. Tracy, 73 Wn. App. at 389, citing Cameron, 30 Wn. App. at 234 (citing In re Palodichuk, 22 Wn. App. 107, 589 P.2d 269 (1978)).

In Tracy, this Court determined that reversal, not remand, was required where the record does not indicate the court may have considered imposing a fine if restitution were not available. The court looked to the facts in Cameron, where the defendant was sentenced to the maximum term of ten years, had been specifically informed that a fine of \$10,000 could be imposed in addition to the incarceration, and was ordered to pay \$24,245.69 in restitution. There, as here, Mr. Cameron had not been told prior to acceptance of his plea that restitution might be imposed. “In Cameron the court could not ascertain from the record whether the trial court would have imposed a fine, or any part thereof, in the event restitution proved to be unavailable. It therefore remanded for resentencing for imposition of such fine as the trial court may in its discretion impose. Cameron, 30 Wn. App. at 234, 633 P.2d 901. We disagree with that approach.” Tracy, 73 Wn. App. at 389.

Because “[t]he record here does not indicate the imposition of restitution was in lieu of a fine or that the judge intended to impose a fine as part of the sentence ... we believe remand to the trial court is not required.” *Id.* Here, as in Tracy, the record is also quite specific. The court imposed 22 months of incarceration, gave credit for time served⁴, and ordered Mr. Martinez to pay a number of costs, fees and fines totaling \$2,212.00. Nowhere is there any mention of the statutory fine at issue in Cameron. Thus, because the record does not indicate the imposition of restitution was in lieu of a fine or that the judge intended to impose a fine as part of the sentence, Mr. Martinez’ conviction should be affirmed and the order of restitution must be reversed. *See Tracy*, 73 Wn. App. at 389. In addition, the orders of restitution in Mr. Martinez’ co-defendants’ cases must be amended to remove his joint and several liability for repayment of losses suffered by the victims.

⁴ CP 29 at ¶ 4.1(b), 40 (“Amendment to Judgment and Sentence re Credit for Time Served”).

2. The finding that Mr. Martinez has the current or future ability to pay Legal Financial Obligations including restitution is not supported in the record and must be stricken from the Judgment and Sentence.

Courts may require an indigent defendant to reimburse the state for the costs only if the defendant has the financial ability to do so. Fuller v. Oregon, 417 U.S. 40, 47-48, 94 S.Ct. 2116, 40 L.Ed.2d 642 (1974); State v. Curry, 118 Wn.2d 911, 915-16, 829 P.2d 166 (1992); RCW 10.01.160(3); RCW 9.94A.760(2). To do otherwise would violate equal protection by imposing extra punishment on a defendant due to his or her poverty.

a. Relevant statutory authority. RCW 10.01.160(1) authorizes a superior court to “require a defendant to pay costs.” These costs “shall be limited to expenses specially incurred by the state in prosecuting the defendant.” RCW 10.01.160(2). In addition, “[t]he court shall not order a defendant to pay costs unless the defendant is or will be able to pay them.” RCW 10.01.160(3). In determining the amount and method of payment of costs, *the court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose.*” RCW 10.01.160(3) (emphasis added). In determining the amount of resitution, *the court should take into consideration the total amount of the*

restitution owed, the offender's present, past, and future ability to pay, as well as any assets that the offender may have. RCW 9.94A.753 (emphasis added).

RCW 9.94A.760(1) provides that upon a criminal conviction, a superior court “may order the payment of a legal financial obligation.” A court-ordered legal financial obligation may include the costs of restitution, incarceration (prison and/or county jail) and medical care incurred in a county jail. RCW 9.94A.760; RCW 9.94A.753; RCW 10.01.160; RCW 70.48.130; *see also* RCW 9.94A.030(30).

b. There is no evidence to support the trial court's finding that Mr. Martinez had the present or future ability to pay legal financial obligations, including restitution. Curry concluded that while the ability to pay was a necessary threshold to the imposition of costs, a court need not make a specific finding of ability to pay; “[n]either the statute nor the constitution requires a trial court to enter formal, specific findings regarding a defendant's ability to pay court costs.” 118 Wn.2d at 916. Curry recognized, however, that both RCW 10.01.160 and the federal constitution “direct [a court] to consider ability to pay.” Id. at 915-16.

Here, the court made an express and formal finding that Mr. Martinez had the present ability or likely future ability to pay legal

financial obligations (“LFOs”), and later entered an Order Establishing Restitution. CP 28 at ¶ 2.5⁵, 35–36. But, whether a finding is expressed or implied, it must have support in the record. A trial court's findings of fact must be supported by substantial evidence. State v. Brockob, 159 Wn.2d 311, 343, 150 P.3d 59 (2006) (citing Nordstrom Credit, Inc. v. Dep't of Revenue, 120 Wn.2d 935, 939, 845 P.2d 1331 (1993)). The trial court's determination “as to the defendant's resources and ability to pay is essentially factual and should be reviewed under the clearly erroneous standard.” State v. Bertrand, 165 Wn. App. 393, 267 P.3d 511, 517 fn.13 (2011), citing State v. Baldwin, 63 Wn. App. 303, 312, 818 P.2d 1116, 837 P.2d 646 (1991).

“Although Baldwin does not require formal findings of fact about a defendant's present or future ability to pay LFOs, the record must be sufficient for [the appellate court] to review whether ‘the trial court judge took into account the financial resources of the defendant and the nature of the burden imposed by LFOs under the clearly erroneous standard (bracketed material added) (internal citation omitted).’” Bertrand, 165 Wn. App. 393, 267 P.3d at 517, citing Baldwin, 63 Wn. App. at 312. A

⁵ The Judgment and Sentence at ¶ “2.5 “**Ability to Pay Legal Financial Obligations.**” incorrectly cites to RCW 9.94A.753, which concerns restitution. The correct authority is RCW 9.94A.760.

finding that is unsupported in the record must be stricken. Bertrand, 165 Wn. App. 393, 267 P.3d at 517.

The record here does not show that the trial court took into account Mr. Martinez' financial resources and the nature of the burden of imposing LFOs, including restitution. In fact, the record contains no evidence to support the trial court's finding in ¶ 2.5 that Mr. Martinez has the present or future ability to pay LFOs, including restitution. The finding is therefore clearly erroneous and must be stricken from the Judgment and Sentence. Bertrand, 165 Wn. App. 393, 267 P.3d at 517.

c. The remedy is to strike the unsupported finding. Bertrand is clear: where there is no evidence to support the trial court's findings regarding ability and means to pay, the findings must be stricken. Mr. Martineza does not challenge the *imposition* of the fees and costs. Rather, the trial court made a specific finding that he has the ability or likely future ability to pay the LFOs, and since there is no evidence in the record to support the finding, the finding must be stricken as clearly erroneous. Bertrand, 165 Wn. App. 393, 267 P.3d at 517.

The reversal of the trial court's judgment and sentence finding at ¶ 2.5 simply forecloses the ability of the Department of Corrections to begin collecting LFOs from Mr. Martinez until after a future determination of his

ability to pay. It is at a future time when the government seeks to collect the obligation that “ ‘[t]he defendant may petition the court at any time for remission or modification of the payments on [the basis of manifest hardship]. Through this procedure the defendant is entitled to *judicial scrutiny* of his obligation and *his present ability to pay at the relevant time.*’ ” Bertrand, 165 Wn. App. at 405, citing Baldwin, 63 Wn. App. at 310–11, 818 P.2d 1116, 837 P.2d 646 (citing court adding emphasis and omitting footnote).

Since the record does not support the trial court's finding that Mr. Martinez has or will have the ability to pay these LFOs when and if the State attempts to collect them, the finding is clearly erroneous and must therefore be stricken from the record. Bertrand, 165 Wn. App. 393, 267 P.3d at 517. To the extent the Order Establishing Restitution purports to require minimum payment of \$50.00 per month “commencing immediately”, the starting date must be stricken until such time as there has been a statutorily required determination of Mr. Martinez’ ability to pay.

D. CONCLUSION

For the reasons stated, the order of restitution in Mr. Martinez' case must be reversed, and the orders of restitution in his co-defendants' cases must be amended to remove his joint and several liability for repayment of losses suffered by the victims. Alternatively, the finding of ability to pay legal financial obligations including restitution should be stricken from the Judgment and Sentence.

Respectfully submitted on June 17, 2012.

s/Susan Marie Gasch, WSBA #16485
Gasch Law Office
P.O. Box 30339
Spokane, WA 99223-3005
(509) 443-9149
FAX: None
gaschlaw@msn.com

PROOF OF SERVICE (RAP 18.5(b))

I, Susan Marie Gasch, do hereby certify under penalty of perjury that on June 17, 2012, I mailed to the following by U.S. Postal Service first class mail, postage prepaid, or provided e-mail service by prior agreement (as indicated), a true and correct copy of brief of appellant:

Juan L. Aparicio Martinez (#353374)
Monroe Corrections Center
P. O. Box 777
Monroe WA 98272-0777

E-mail: gedgar@co.douglas.wa.us
Gordon Edgar
Douglas County Deputy Prosecutor
P.O. Box 360
Waterville WA 98858-0360

E-mail: sclm@co.douglas.wa.us
Steven M. Clem
Douglas County Prosecutor
P.O. Box 360
Waterville WA 98858-0360

s/Susan Marie Gasch, WSBA #16485

APPENDIX “A”

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FILM NO. JUANITA S. KOCH
DOUGLAS COUNTY CLERK
WACHTONVILLE, WASH. DEPUTY

SUPERIOR COURT OF WASHINGTON
DOUGLAS COUNTY

STATE OF WASHINGTON)	No. 11-1-00031-5
Plaintiff,)	
vs.)	
JUAN I. FONARDO APARICIO MARTINEZ,)	ORDER ESTABLISHING
Defendant.)	RESTITUTION

THIS MATTER having come on for hearing to determine restitution due pursuant to the Judgment and Sentence entered herein on October 24, 2011, the defendant being represented by his attorney, PAUL CASSELL, and the State being represented by Deputy Prosecuting Attorney W. GORDON EDGAR; the Court finds as follows:

I. FINDINGS

The Court finds that the amount of easily ascertainable restitution incurred as a result of the offense in this case is \$26,019.82. The Court finds that \$15,489.10 is due to Farmers National Documents Center, P.O. Box 288994, Oklahoma City, OK 73126-8994 and \$10,550.72 is due to Jessica Herrejon, P.O. Box 733, Bridgeport, WA 98613.

The Court further finds the total amount of restitution shall be paid joint and severally by Edgar M. Jimenez-Arteaga, Douglas County Superior Court cause number 11-1-00028-5, Frody Avila-Villasenor, Douglas County Superior Court cause number 11-1-

STEVEN M. CLEM
DOUGLAS COUNTY PROSECUTING ATTORNEY
P.O. Box 566, Wacleville, WA 98153
509-745-8525 - FAX 509-775-000000035

1 00029-3 and Jorge Alexius Corrales Bejar, Douglas County Superior Court cause no. 11-
2 8-00084-9.

3 II. ORDER

4 IT IS ORDERED that the total amount of restitution in this case is \$26,019.82
5 as indicated in the findings above, and is payable as follows:

6 Farmers National Documents Center	\$15,469.10
7 P.O. Box 258994 Oklahoma City, OK 73128-8994	
8 Silvano & Jessica Herrejon	\$10,550.72
9 P.O. Box 733 Bridgport, WA 98813	

10 IT IS FURTHER ORDERED that the total amount of restitution shall be paid joint
11 and severally by Jorge Alexius Corrales Bejar, Douglas County Superior Court cause no.
12 11-8-00094 9, Edgar M. Jimenez Arteaga, Douglas County Superior Court cause number
13 11-1-00028-5 and Fredy Avila-Villasenor, Douglas County Superior Court cause number
14 11-1-00029-3.

15 Payments shall not be less than \$50.00 per month, with payments
16 commencing immediately.

17 All other provisions of the Judgment and Sentence shall remain the same.

18 DATED: 11/11 [Signature]
19 JUDGE/COURT COMMISSIONER

20 Presented by: [Signature] Approved for entry, appeal rights reserved:
21 [Signature]
22 W. GORDON EDGAR, WSBA 20799 PAUL CASSEL, WSBA 9155
23 Deputy Prosecuting Attorney Attorney for Defendant

24 STEVEN M. CLEM
DOUGLAS COUNTY PROSECUTING ATTORNEY
P.O. Box 588, Wells, WA 98592
509-745-8635 • FAX 509-745-1111 0-000000036

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SUPERIOR COURT OF WASHINGTON
DOUGLAS COUNTY

FILED

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JANITA S. KOCH
DOUGLAS COUNTY CLERK
WATSON, WASH.

BY _____ DEPUTY

STATE OF WASHINGTON

Plaintiff,

No. 11-1-00028-5

vs.

ORDER ESTABLISHING
RESTITUTION

ELISAR M. JIMENEZ ARTEAGA,
DOB: 12/31/1992

Defendant.

THIS MATTER having come on for hearing to determine restitution due pursuant to the Judgment and Sentence entered herein on May 16, 2011, the defendant being represented by his attorney, GEORGE P. TREJO, JR., and the State being represented by Deputy Prosecuting Attorney ERIC C. BIGGAR, the Court finds as follows:

I. FINDINGS

The Court finds that the amount of easily ascertainable restitution incurred as a result of the offense in this case is \$26,019.82. The Court finds that \$15,469.10 is due to Farmers National Documents Center, P.O. Box 268994 Oklahoma City, OK 73126-8994 and \$10,550.72 is due to Jessica Herrejon, P.O. Box 733, Bridgeport, WA 98813.

The Court further finds the total amount of restitution shall be paid joint and severally by Jorgo Alexis Cortales Bejar, Douglas County cause number 11-8-00094-9, Frudy Avila-Villasenor, Douglas County cause number 11-1-00029-3 and Juan Leonardo Aparicio Martinez, Douglas County cause number 11-1-00031-5.

STEVEN M. CLEM
DOUGLAS COUNTY PROSECUTING ATTORNEY
P.O. Box 380, Waterville, WA 98756-0380
509-749-3535 • FAX 509-749-8672

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II. ORDER

IT IS ORDERED that the total amount of restitution in this case is \$28,019.82 as indicated in the findings above, and is payable as follows:

Farmers National Documents Center P.O. Box 288994 Oklahoma City, OK 73128-8994	\$15,469.10
Jessica Herrejon P.O. Box 732 Bridgeport, WA 98813	\$10,550.72

IT IS FURTHER ORDERED that the total amount of restitution shall be paid joint and severally by Jorge Alexius Cornales Bejar, Douglas County cause number 11-8-00094-9, Freddy Avila-Villasenor, Douglas County cause number 11-1-00029-3 and Juan Leonardo Aparicio Martinez, Douglas County cause number 11-1-00031-5.

Payments shall not be less than \$ *As provided in the J+S.* per month, with payments commencing on the ___ day of ___, 2011. *AS*

All other provisions of the Order of Disposition shall remain the same.

DATED: *11/2/11*

John Hotchkiss
JUDGE/COURT COMMISSIONER

Presented by:
Eric C. Biggar
ERIC C. BIGGAR, WSPA# 17475
Deputy Prosecuting Attorney

Approved for entry: _____
Attorney for Defendant

STEVEN M. CLEM
DOUGLAS COUNTY PROSECUTING ATTORNEY
P.O. Box 360, Wacławitz, WA 98002-0360
360-745-8325 • FAX 360-745-8670

FILED

SUPERIOR COURT OF WASHINGTON
DOUGLAS COUNTY
JUVENILE

NOV 16 2011

JUANITA S. KOCH
DOUGLAS COUNTY CLERK
WATERVILLE, WASH.

BY _____ DEPUTY

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4	STATE OF WASHINGTON)	
5	Plaintiff,)	No. 11-8-00094-8
6	vs.)	
7	JORGE ALEXIUS CORRALES BEJAR)	ORDER ESTABLISHING
8	DOB: 01/23/1995)	RESTITUTION
9	Respondent.)	

THIS MATTER having come on for hearing to determine restitution due pursuant to the Judgment and Sentence entered herein on October 5, 2011, the respondent being represented by his attorney, GLORIA OCHOA, and the State being represented by Deputy Prosecuting Attorney W. GORDON EDGAR; the Court finds as follows:

I. FINDINGS

The Court finds that the amount of easily ascertainable restitution incurred as a result of the offense in this case is \$26,019.82. The Court finds that \$15,469.10 is due to Farmers National Documents Center, P.O. Box 268994, Oklahoma City, OK 73126-8994 and \$10,550.72 is due to Jessica Herrejon, P.O. Box 733, Bridgeport, WA 98813.

The Court further finds the total amount of restitution shall be paid joint and severally by Edgar M. Jimenez-Arteaga, Douglas County Superior Court cause number 11-1-00028-5, Freddy Avila-Villasenor, Douglas County Superior Court cause number 11-1-00029-3 and Juan Leonardo Aparicio Martinez, Douglas County Superior Court cause number 11-1-00031-5. Although the respondent's share of the total amount is \$6,504.95,

STEVEN M. LLEM
DOUGLAS COUNTY PROSECUTING ATTORNEY
P.O. Box 390, Waterville, WA 98859-0390
509-745-8535 • FAX 509-745-5870

1 in the event any or all co defendants fail to pay their share, respondent will be liable to pay
2 the remaining amount.

3 II. ORDER

4 IT IS ORDERED that the total amount of restitution in this case is \$26,019.82
5 as indicated in the findings above, and is payable as follows:

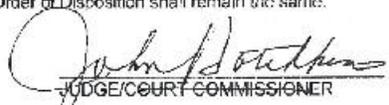
6	Farmers National Documents Center	\$15,489.10
7	P. O. Box 268894	
	Oklahoma City, OK 73128-8894	
8	Silviano & Jessica Herrejon	\$10,550.72
9	P.O. Box 733	
	Bridgport, WA 98813	

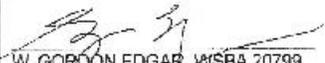
10 IT IS FURTHER ORDERED that the total amount of restitution shall be paid joint
11 and severally by Juan Leonardo Aparicio Martinez, Douglas County cause number 11-8-
12 00031-5, Edgar M. Jimenez-Arteaga, Douglas County cause number 11-1-00028-5 and
13 Fredy Avila-Villasenor, Douglas County cause number 11-1-00029-3.
14

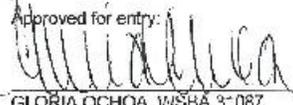
15 Payments shall not be less than \$50.00 per month, with payments
16 commencing immediately.

17 All other provisions of the Order of Disposition shall remain the same.

18 DATED: 11/14/11


JUDGE/COURT COMMISSIONER

20 Presented by:
21 
22 W. GORDON EDGAR, WSBA 20799
23 Deputy Prosecuting Attorney

Approved for entry:
21 
22 GLORIA OCHOA, WSBA 3-087
23 Attorney for Respondent

24
STEVEN M. CLERK
DOUGLAS COUNTY PROSECUTING ATTORNEY
P.O. Box 363, Waterville, WA 98258-0363
360-740-0626 - FAX 360-745-6670

1 SUPERIOR COURT OF WASHINGTON
2 DOUGLAS COUNTY

FILED

3 NOV 16 2011
4 JARROLD S. KOLH
DOUGLAS COUNTY CLERK
WATSEVILLE, WASH.
DEPUTY

4 STATE OF WASHINGTON)
5 Plaintiff,) No. 11-1-00029-3
6 vs.)
7 FREDY AVILA VILLASENOR)
8 DOB: 09/13/1982)
9 Defendant.)

ORDER ESTABLISHING
RESTITUTION

9 THIS MATTER having come on for hearing to determine restitution due
10 pursuant to the Judgment and Sentence entered herein on May 16, 2011, the defendant
11 being represented by his attorney, JEFFREY C. BARKER., and the State being
12 represented by Deputy Prosecuting Attorney ERIC C. BIGGAR; the Court finds as follows:

13
14 I. FINDINGS

15 The Court finds that the amount of easily ascertainable restitution incurred as a
16 result of the offense in this case is \$26,019.82. The Court finds that \$15,469.10 is due to
17 Farmers National Documents Center, P.O. Box 268994, Oklahoma City, OK 73126-8994
18 and \$10,550.72 is due to Jessica Herrejon, P.O. Box 733, Bridgeport, WA 98813.

19 The Court further finds the total amount of restitution shall be paid joint and
20 severally by Jorge Alexius Corrales Rejar, Douglas County cause number 11-8-00094-9,
21 Edgar M. Jimenez-Arteaga, Douglas County cause number 11-1-00026-5 and Juan
22 Leonardo Acaricio Martinez, Douglas County cause number 11-1-00031-5.

23
24 STEVEN M. GILM
DOUGLAS COUNTY PROSECUTING ATTORNEY
P.O. Box 360, Waterville, WA 98888-0360
209-745-8536 • FAX 509-745-8670

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II. ORDER

IT IS ORDERED that the total amount of restitution in this case is \$26,019.82 as indicated in the findings above, and is payable as follows:

Farmers National Documents Center P.O. Box 268994 Oklahoma City, OK 73126-8994	\$15,469.10
Jessica Herrejon P.O. Box 733 Bridgeport, WA 98813	\$10,550.72

IT IS FURTHER ORDERED that the total amount of restitution shall be paid joint and severally by Jorge Axius Corrales Bejar, Douglas County cause number 11-8-00094-9, Edgar M. Jimenez-Arteaga, Douglas County cause number 11-1-00028-6 and Juan Leonardo Aparicio Martinez, Douglas County cause number 11-1-00031-5.

Payments shall not be less than \$ As provided in the J.S. per month, with payments commencing on the ___ day of ___, 2011.

All other provisions of the Order of Disposition shall remain the same.

DATED: 11/16/11

John H. Stubbins
JUDGE/COURT COMMISSIONER

Presented by:
E. C. Biggar
ERIC C. BIGGAR, WABA # 17475
Deputy Prosecuting Attorney

Approved for entry: *[Signature]*
Attorney for Defendant *SRW*

STEVEN M. OLCM
DOUGLAS COUNTY PROSECUTING ATTORNEY
P.O. Box 350 Wainville, WA 98853-0350
509-749-8639 • FAX 509-749-8670