

64994-9

64994-9

REC'D

AUG 10 2010

King County Prosecutor  
Appellate Unit

NO. 64994-9-I

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION ONE

---

---

STATE OF WASHINGTON,

Respondent,

v.

DEMITRI FORTE,

Appellant.

---

---

ON APPEAL FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR KING COUNTY

The Honorable Andrea Darvas, Judge

---

---

BRIEF OF APPELLANT

---

---

JENNIFER J. SWEIGERT  
Attorney for Appellant

NIELSEN, BROMAN & KOCH, PLLC  
1908 E Madison Street  
Seattle, WA 98122  
(206) 623-2373

2010 AUG 10 PM 4:09

FILED  
COURT OF APPEALS DIV #1  
STATE OF WASHINGTON

**TABLE OF CONTENTS**

	Page
A. <u>ASSIGNMENTS OF ERROR</u> .....	1
<u>Issues Pertaining to Assignments of Error</u> .....	1
B. <u>STATEMENT OF THE CASE</u> .....	1
1. <u>Procedural Facts</u> .....	1
2. <u>Substantive Facts</u> .....	2
C. <u>ARGUMENT</u> .....	3
THE RESTITUTION ORDER SHOULD BE REVERSED BECAUSE THE STATE FAILED TO PRESENT REASONABLY RELIABLE EVIDENCE OF A CAUSAL CONNECTION LINKING THE LOST WAGES TO THE CRIME CHARGED.....	3
a. <u>The State Failed to Establish a Causal Connection Between     the Lost Wages and the Crime at Issue.</u> .....	5
b. <u>The State Failed to Present Reliable Evidence That Hurley     Missed Eight Months of Work Due to the Crime in Question.</u> 7	7
c. <u>No New Restitution Hearing Is Necessary.</u> .....	9
D. <u>CONCLUSION</u> .....	10

**TABLE OF AUTHORITIES**

Page

**WASHINGTON CASES**

**State v. Bunner**  
86 Wn. App. 158, 936 P.2d 419 (1997)..... 5

**State v. Davison**  
116 Wn.2d 917, 809 P.2d 1374 (1991)..... 5

**State v. Dedonado**  
99 Wn. App. 251, 991 P.2d 1216 (2000)..... 4, 5, 6

**State v. Dennis**  
101 Wn. App. 223, 6 P.3d 1173 (2000)..... 5, 6

**State v. Enstone**  
137 Wn.2d 675, 974 P.2d 828 (1999)..... 4

**State v. Griffith**  
164 Wn.2d 960, 195 P.3d 506 (2008)..... 7, 9

**State v. Kisor**  
68 Wn. App. 610, 844 P.2d 1038 (1993)..... 4

**State v. Mark**  
36 Wn. App. 428, 675 P.2d 1250 (1984)..... 4

**State v. Ring**  
134 Wn. App. 716, 141 P.3d 669 (2006)..... 4

**State v. Tobin**  
132 Wn. App. 161, 130 P.3d 426 (2006)..... 4, 5, 7

**RULES, STATUTES AND OTHER AUTHORITIES**

RCW 9.94A.505 ..... 4

RCW 9.94A.753 ..... 4

**TABLE OF AUTHORITIES (CONT'D)**

	Page
U.S. Const. amend. XIV .....	4
Wash. Const. art. I, § 3 .....	4

A. ASSIGNMENTS OF ERROR

1. The court erred in imposing restitution for lost wages based on speculation and unreliable evidence.

2. The court erred in imposing restitution for lost wages unrelated to the crime.

Issues Pertaining to Assignments of Error

Did the court impermissibly base restitution on speculation and unreliable evidence or for lost wages unrelated to the offense when the victim claimed over \$10,000 in lost wages over eight months after he received injuries to his head and shoulders but his employer stated he missed work because of a cast on his hand, and there was no evidence he missed work after the first seven weeks?

B. STATEMENT OF THE CASE

1. Procedural Facts

The King County prosecutor charged Demitri Forte with first-degree burglary. CP 1. Forte pled guilty to reduced charge of residential burglary and second-degree assault. CP 18-27. As part of the plea, Forte agreed to pay restitution for injuries, stolen items, and damage to the apartment. CP 33. Forte appeals the restitution order. CP 56.

2. Substantive Facts

Forte pled guilty to burglarizing and assaulting Cameron Hurley on September 30, 2008. CP 26-27. In the first restitution order, the court ordered Forte to pay Hurley's medical bills in the amount of \$1,918.00. CP 53-54. Forte did not dispute this amount. RP<sup>1</sup> 14. However, Forte challenged the evidence supporting Hurley's claim of \$10,436.40 in lost wages. RP 16-20.

The documentation submitted in support of restitution included the Crime Victims Application for Benefits form, dated November 3, 2008, in which Hurley claimed he earns \$15 per hour and works an average of 36 hours per week at B&B Lawn and Hauling. Appendix A.<sup>2</sup> Kim Vincent with the Crime Victims' Compensation Fund submitted a declaration that she called B&B Lawn and Hauling and spoke with Hurley's employer, Darnell Morris on November 20, 2008. Appendix B. Morris confirmed Hurley's wage and hours and stated that he had not been back to work because he still had a cast on his hand. Appendix B.

The documentation regarding Hurley's medical bills shows treatment for injuries to the head and shoulders. Appendix C. The State presented

---

<sup>1</sup> All RP cites refer to the restitution hearing on January 26, 2010.

<sup>2</sup> Through an oversight, the documents supporting restitution were never filed in the Superior Court. The State agreed the court below relied upon them and they were forwarded to this Court on July 28, 2010. A copy of each document relied upon is attached as an appendix to this brief.

itemized payment record for a chiropractor between October, 2008 and April, 2009 and radiology bills from September 30, 2008, the date of the assault. RP 19. The certification of probable cause also mentions lacerations to the face and injuries to the head, neck, and shoulders, without mentioning any damage to a hand. CP 31, 33. The court also noted the absence of any documentation of an emergency room visit. RP 20. The record contains no mention of any injury to a hand except Forte's own, which, the probable cause affidavit notes, was fractured at the time of his arrest. CP 31.

The court concluded that defense counsel "raises some legitimate reasons to question the – the employer's statements to Crime Victims Compensation." RP 20. Despite the evidence of possible fraud, the court concluded a preponderance of the evidence showed Hurley was entitled to the full amount for lost wages because of his sworn statement and his employer's confirmation. RP 20; CP 54, 55.

C. ARGUMENT

THE RESTITUTION ORDER SHOULD BE REVERSED  
BECAUSE THE STATE FAILED TO PRESENT REASONABLY  
RELIABLE EVIDENCE OF A CAUSAL CONNECTION  
LINKING THE LOST WAGES TO THE CRIME CHARGED.

"Restitution is an integral part of sentencing, and it is the State's obligation to establish the amount of restitution." State v. Dedonado, 99 Wn.

App. 251, 257, 991 P.2d 1216 (2000). The State must prove damages by presenting “substantial credible evidence” amounting to a preponderance of the evidence. State v. Tobin, 132 Wn. App. 161, 173-74, 130 P.3d 426 (2006). Both our state and federal constitutions provide that a person may not be deprived of property without due process of law. U.S. Const. amend. XIV; Const. art. I, § 3. Defendants have a due process right to have restitution determined based on reliable evidence. State v. Kisor, 68 Wn. App. 610, 619-20, 844 P.2d 1038 (1993). A restitution order should be reversed in the absence of reasonably reliable evidence to support it. State v. Mark, 36 Wn. App. 428, 434, 675 P.2d 1250, 1253 (1984).

In determining any sentence, including restitution, the court can rely on no more facts than are admitted in the plea agreement or proved at the time of the hearing. Dedonado, 99 Wn. App. at 256. RCW 9.94A.505(7) and RCW 9.94A.753(3) require a court to award restitution “based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury.” A court abuses its discretion in imposing restitution when the restitution order is “manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons.” State v. Ring, 134 Wn. App. 716, 719, 141 P.3d 669 (2006) (quoting State v. Enstone, 137 Wn.2d 675, 679-80, 974 P.2d 828 (1999)). Here, the restitution order should be vacated because there

was insufficient evidence connecting the damages claimed by the victim to the crime charged.

a. The State Failed to Establish a Causal Connection Between the Lost Wages and the Crime at Issue.

Restitution is only proper when a causal connection exists between the crime and the injuries for which compensation is sought. Dedonado, 99 Wn. App. at 256 (citing State v. Bunner, 86 Wn. App. 158, 160, 936 P.2d 419 (1997)). Restitution compensation is limited to victims who have been injured “as a direct result of the crime charged.” State v. Davison, 116 Wn.2d 917, 809 P.2d 1374 (1991). Causation is evaluated using a “but-for” test. Tobin, 132 Wn. App. Restitution is only permitted if, but for the defendant’s crime, the victim would not have suffered the loss described. Id. When the State fails to establish a causal connection between the crime and the damages, the restitution order must be vacated on appeal. State v. Dennis, 101 Wn. App. 223, 229, 6 P.3d 1173 (2000). In this case, the restitution order entered January 28, 2010 is fatally flawed because the amount awarded for lost wages was not based on reasonably reliable evidence connecting it to the crime.

The mere existence of medical bills documenting treatment is insufficient to establish the necessary causal connection. Dennis, 101 Wn. App. at 227). Dennis was convicted of assaulting three police officers. Id.

The medical bills submitted by the State did not indicate why the officers received treatment. Id. at 228. The certification of probable cause stated only that the officers were treated at Northwest Hospital for their injuries. Id. For one officer, the only other documentation was that the officer was treated at Northwest Hospital, on an unknown date, incurring \$180.90 in expenses. Id. No evidence tied these expenses to the assault at issue. The court accepted the State's concession that this evidence was insufficient to establish a causal nexus and concluded that the sentencing court abused its discretion in awarding restitution. Id.; see also Dedonado, 99 Wn. App. at 255, 257 (expenses for "fill all fluids" and "align front suspension" not sufficiently causally connected to ignition switch damage during theft).

As in Dennis, the evidence here is insufficient because no evidence ties Hurley's eight months of missed work to the crime charged. There is no credible, reliable evidence Hurley was unable to work as a result of injuries sustained in the assault. Hurley did not testify he was unable to work the entire time he was under the chiropractor's care. His employer mentioned only his inability to work due to a cast on his hand, but nothing in the evidence indicates the cast on Hurley's hand was in any way connected to Forte's offense. And, as the court noted, there were legitimate doubts raised about Hurley's employer's statement, given that he mentioned an injury that

does not appear in the record except as pertaining to Forte himself, not Hurley. RP 20; CP 31; Appendix B.

The absence of evidence in this case is notable. The State did not present any pay stub, or W-2 tax withholding form. The State did not present any sworn testimony or declaration from the employer. The only sworn statement by Hurley is the application for benefits form. There is no medical documentation indicating an inability to work.

Given the absence of evidence tying the missed work to injuries sustained in the assault and the evidence of a conspiracy to defraud, the State failed to meet its burden to present “substantial credible evidence.” State v. Griffith, 164 Wn.2d 960, 965, 195 P.3d 506 (2008); Tobin, 132 Wn. App. at 173-74. This Court should vacate the restitution award for lost wages.

b. The State Failed to Present Reliable Evidence That Hurley Missed Eight Months of Work Due to the Crime in Question.

Even if this Court finds a causal connection between the crime and Hurley’s missed work, there is no evidence Hurley missed work after November 20, 2008, approximately seven weeks after the offense.

Hurley’s application for benefits form is dated November 3, 2008 and states that he has not worked since September 30, 2008. Appendix A. According to the declaration of Kim Vincent with the Crime Victims Compensation Fund, she spoke with Hurley’s employer on November 20,

2008. Appendix B. The only evidence that Hurley continued to miss work was apparently that he did not return the checks he received from the Crime Victims Compensation Program. Appendix D. The court appears to have relied on the chiropractor bills to conclude that Hurley was still unable to work as a result of his injuries. RP 21 (“It’s certainly understandable if you’re in treatment with a chiropractor. . . you can’t do the kind of heavy work associated with working for a landscaping business, cast or no cast.”)

Any evidence that Hurley missed work after November 20 is entirely speculative. After that date there is no statement, sworn or otherwise that Hurley was unable to work as a result of his injuries. The mere existence of chiropractic bills and his failure to return the checks does not establish he was unable to work, and the court’s conclusion is speculative. Assuming, for the sake of argument, that the statements of Hurley and his employer are reliable and credible in light of the contradictions, those statements do not support an award for eight months of lost wages. At best, the documentation shows Hurley missed seven weeks of work, from September 30, 2008 to November 20, 2008. This works out to \$3,780.00, not the more than \$10,000 the court awarded. If it is not vacated entirely, the restitution award should be reduced to the amount actually shown by the documentation presented.

c. No New Restitution Hearing Is Necessary.

When a restitution award is vacated for insufficient evidence, the State may not present new evidence on remand. Griffith, 164 Wn.2d at 968. Griffith was convicted of possessing stolen property. Id. at 967. The court vacated a restitution award that included other items taken in the same burglary, but that were never found to be in Griffith's possession. Id. at 967-68. In that case, the court remanded for a restitution hearing to determine the value of the items that the record showed were in her possession, noting that no new evidence could be submitted. Id. at 968.

In this case, there is no need to remand for a new hearing. If this Court agrees the evidence of causality is insufficient, the restitution award should be vacated. Remand would not change the outcome, since no new evidence could be added to that already declared insufficient. Griffith, 164 Wn.2d at 968. If this Court finds the evidence insufficient only as to the time beyond the first seven weeks, the proper amount of restitution is a matter of simple arithmetic that does not require a new hearing.

D. CONCLUSION

For the foregoing reasons, this Court should vacate the restitution order entered on January 28, 2010, or, in the alternative, remand with instructions to enter a modified order reducing the amount to \$3,780.00.

DATED this 10<sup>th</sup> day of August, 2010.

Respectfully submitted,

NIELSEN, BROMAN & KOCH, PLLC

  
JENNIFER J. SWEIGERT

WSBA No. 38068

Office ID No. 91051

Attorney for Appellant

# **Appendix A**

### CRIME VICTIMS APPLICATION FOR BENEFIT

Language Preference (Circle one)  
 English  Spanish  Russian  Korean  Chinese  Vietnamese  Laotian  Cambodian  Other: \_\_\_\_\_

1. Victim's Name (First-Middle-Last)  
**Cameron Hurley**

2. Birthdate  
**12/11/61**

3. Date of Death (if applicable)  
\_\_\_\_\_

4. Social Security Number  
\_\_\_\_\_

5. Home phone #  
\_\_\_\_\_

6. Sex (circle one)  
 Male  Female

7. Home address  
**29225 Military Rd S. Apt 05**

8. Mailing address (if different from home address)  
**27013 Pacific Hwy PMB 885**

9. City, State, ZIP  
**Des Moines WA 99118**

10. Marital Status (circle one)  
 Married  Widowed  Separated  Single  Divorced

11. Spouse's name  
\_\_\_\_\_

12. Name of person making application (if different)  
\_\_\_\_\_

13. Social Security Number  
\_\_\_\_\_

14. Name and address of child(ren)'s legal guardian  
**NONE**

15. Contact person's name (if you don't want us to call you at home) (Covered person's name)  
**NONE**

16. This department collects and maintains information on claims by race, national origin and handicap for statistical purposes. If you object to furnishing this information, you may leave this section blank. Race or national origin: (circle one)  
 Black  Pacific Islander  White  Asian  Hispanic  Native American  Other: \_\_\_\_\_

Do you have a disability? (circle one) YES  NO  Caused by crime? (circle one) YES  NO

17. Who referred you to our program? (circle one)  
 Police  Prosecutor's Office  Victim Witness  Other: \_\_\_\_\_

18. What kind of benefits are you applying for? (circle all that apply)  
 Medical Treatment  Mental Health Treatment  Crime Counseling  Funeral Expenses  Other: **Housing**

19. Date criminal employed From **1/1/05** To **1/1/08**

20. Last day worked **9/30/08**

21. Rate of pay at this job (circle one)  
 Hourly **15.00/hr** Weekly \_\_\_\_\_ Monthly \_\_\_\_\_

22. Hours per day **6** Days per week **21**

23. Additional earnings (circle all that apply)  
 (Monthly average) \_\_\_\_\_ Pension \_\_\_\_\_ Unemployment \_\_\_\_\_

24. Were you employed 3 consecutive months in the year prior to your injury? (circle one) YES  NO

25. Have you returned to work? If yes, date returned \_\_\_\_\_

26. Was sick leave or disability insurance paid? (circle one) YES  NO  If yes, through what period? From \_\_\_\_\_ To \_\_\_\_\_

27. Was your employer providing you and/or family's medical, dental and/or vision insurance on the day you were injured? (circle one) YES  NO

28. Business name of employer  
**A B Lawn and Hauling**

Employer address  
**P.O. Box 22362 Seattle WA 98122**

City **WA 98122**

NOTE to employer: The Crime Victims Compensation Program is not a part of the Department of Labor and Industries' Insurance Program. Benefits provided through the program for injuries that did not occur on the job will not affect your premium.

29. Your provider must bill your primary insurance first. All insurance resources must be listed. This includes health, auto (victim & offender's), life, workers compensation, dental, medicare, SSI/SSA, Indian health, public assistance (Medicaid), burial benefits. CVCP can only pay benefits after your insurance(s) have paid SSI # of Policy holder (if applicable)

Insurance company name \_\_\_\_\_ Phone number \_\_\_\_\_ Policy holder name \_\_\_\_\_ Policy number \_\_\_\_\_

NOTE - READ LEGAL NOTICES ON LAST PAGE

30. I declare that these responses are true to the best of my knowledge and belief. In signing this form, I permit all providers, hospitals, or clinics to release medical or mental health reports generated by themselves and others to the Crime Victims Compensation Program. This includes HIV and other STD testing, alcohol, and drug treatment.

Signature **X Cameron Hurley** Date **11/13/08**

The crime must be reported to a police agency within 12 MONTHS of the incident OR within 12 MONTHS of when it would have reasonably been reported.

31. Date crime happened **9/30/08**

32. Approximate time **AM 8:30-9:45 hr**

33. Was the crime reported to a police agency? (circle one) YES  NO  If yes, date crime reported **9/30/08**

34. Location of crime - Address  
**29225 Military Rd S. Apt 05**

City **Federal Way WA 98003**

35. Name of enforcement agency reported to: (circle one)  
 Police  WSP  Sheriff  Tribal

36. Officer's name  
**Howell E. Mattson**

Officer's number  
**08-13416**

37. Civil compensation of a sexual predator **N/A**

38. Date you were contacted about proceeding **10/1/08**

39. Contacted by (name)  
**Howell**

40. Contact's phone #  
**(253) 836-673**

41. Type of crime (circle one)  
 Assault  Sexual assault  Murder  Domestic violence  Vehicular assault  DUI vehicular crime  Vehicular homicides

Other (if not listed above) **Home invasion**

42. Weapon used  
**Metal Pipe**

43. Area of body injured  
**Head, Body, Upper**

44. Offender's name (if known)  
\_\_\_\_\_

45. Was the offender living with you when the incident occurred? (circle one) YES  NO

46. Have you filed or do you intend to file a civil suit? (circle one) YES  NO

47. Brief description of the crime: **4 men with MASK Busted into the house. me and Leonard had to fight to keep them out. I got hit in my head several times and my upper body. I got staples in my head and checked ribs from this invasion.**

47. Please have your provider fill out this section if you have received treatment for this crime injury.

Provider's name **St. Francis Hospital** Provider number **MA0001185** Phone # **(253) 944-6095**

Address **37515 Ninth Ave S. Federal Way WA 98003**

City **Federal Way** State **WA** ZIP **98003**

Diagnosis: \_\_\_\_\_ Description of injury: (Please include site of body injury) \_\_\_\_\_

Are you certifying (circle one) YES  NO  Did you first treated patient for this injury **9/30/08**

Provider's signature \_\_\_\_\_

# **Appendix B**



RLOG RLOGLST1 LINIIS (c) Copyright L&I, WA 1990 (A1 Reg) 12/08/09  
REVIEW FULL TEXT 10:10:56.9

-----  
VM27437 CAMERON HURLEY 535-66-5676 OLY CV37  
-----

SEQ--DATE--STAT--UPDT--CONTACT NAME-----PHONE-----WRKPOS

1 11/20/08 WAGE VERIFICATION 206-579-1728 CV37  
SPOKE WITH DARNELL MORRIS, OWNER B & B LAWN & HAULING. VERIFIED WAGES  
\$15.00 AN HOUR, AVERAGE 36 HOURS A WEEK. NO HCB CLMT HAS NOT RETURNED TO  
WORK AS HE STILL HAS A CAST ON HIS HAND. SINGLE NO DEPENDENTS

2 11/20/08 CV37  
Wage record for Job of Injury created.

3 11/18/08 CV62  
TYPE OF CLAIM: V LAST TWO DIGITS: 37  
MARRIED: N DEPENDENTS: 0  
TIE IN: N COMPANION: N

SEQ: \_ OPT: \_ (C/U T=TOP L=LIST) SEARCH DTE: \_\_\_\_\_ TOTAL RECDS 47 PG 7

-----  
MENUS ==> PF1=HELP

PF7=PREV PAGE PF9=CONT SPO PF10=RESTART

# **Appendix C**

**Paid to date for Purposes of Restitution**

Report Date: 6/24/2009 Data as of: 6/19/2009

Additional

Claim: VM27437  
 Victim: HURLEY, CAMERON  
 DOI/Crime: 9/30/2008  
 Offender/s: MEAD, KENNETH WILLIAM  
 FORTE, DEMETRIUS WILLIA

Bills: 1,918.00  
 Gross Adjustments:  
 Compensable: 10,436.40  
 Deduct Overpay Assessed: 0.00  
 Total Paid: 12,354.40  
 Deduct Restitution Awarded:  
 Deduct 1st and 3rd Party Recovery:  
 Restitution Requested: 12,354.40

Cause ID/s: S1709-8-02234-0  
 S1708-1-12815-2

**Detail Bills By Line Item**

ICN	Begin Date	Procedure	Provider	Pd Date	Billed	Paid
00831832011003800	9/30/2008	XRAY CERVICAL COMPLETE 4 VIEWS	KESKEY THOMAS S MD	1/6/2009	43.00	9.34
00831832012005500	9/30/2008	CAT SCAN HEAD BRAIN WO CONTRAST	JACOB JASON SMD	12/16/2008	119.00	26.01
00912132012002900	12/22/2008	E/M OFFICE/OP VISIT,NEW PATIENT, LEVEL 4	HAYNES RICHARD L DC	5/19/2009	195.00	97.72
00912132012003000	12/22/2008	LEVEL 2: CHIROPRACTIC CARE VISIT	HAYNES RICHARD L DC	5/19/2009	65.00	52.76
	12/22/2008	XRAY CERVICAL AP AND LATERAL		5/19/2009	80.00	22.01
00912132012003100	12/22/2008	XRAY LUMBOSACRAL AP AND LATERAL	HAYNES RICHARD L DC	5/29/2009	85.00	23.12
	1/5/2009	LEVEL 2: CHIROPRACTIC CARE VISIT		5/29/2009	65.00	52.76
	1/5/2009	PT IN REMOTE AREAS		5/29/2009	40.00	40.00
00912132012003200	1/7/2009	PT IN REMOTE AREAS	HAYNES RICHARD L DC	5/29/2009	40.00	40.00
	1/7/2009	LEVEL 2: CHIROPRACTIC CARE VISIT		5/29/2009	65.00	52.76
	1/9/2009	PT IN REMOTE AREAS		5/29/2009	40.00	40.00
	1/9/2009	LEVEL 1: CHIROPRACTIC CARE		5/29/2009	50.00	41.20
00912132012003300	1/12/2009	PT IN REMOTE AREAS	HAYNES RICHARD L DC	5/29/2009	40.00	40.00
	1/12/2009	LEVEL 1: CHIROPRACTIC CARE		5/29/2009	50.00	41.20
	1/14/2009	LEVEL 1: CHIROPRACTIC CARE		5/29/2009	50.00	41.20
	1/14/2009	PT IN REMOTE AREAS		5/29/2009	40.00	40.00
00912132012003400	1/16/2009	LEVEL 1: CHIROPRACTIC CARE	HAYNES RICHARD L DC	6/9/2009	50.00	41.20
	1/16/2009	PT IN REMOTE AREAS		6/9/2009	40.00	40.00
	1/20/2009	LEVEL 1: CHIROPRACTIC CARE		6/9/2009	50.00	41.20
00912132012003500	1/21/2009	LEVEL 2: CHIROPRACTIC CARE VISIT	HAYNES RICHARD L DC	5/29/2009	65.00	52.76
	1/23/2009	LEVEL 1: CHIROPRACTIC CARE		5/29/2009	50.00	41.20
00912132012003600			HAYNES RICHARD L DC			

Confidentiality laws prohibit you from disclosing the information on this report without the previous authorization of the victim.

1/26/2009	LEVEL 1: CHIROPRACTIC CARE	5/29/2009	50.00	41.20
1/28/2009	LEVEL 1: CHIROPRACTIC CARE	5/29/2009	50.00	41.20
1/30/2009	LEVEL 1: CHIROPRACTIC CARE	5/29/2009	50.00	41.20
2/20/2009	LEVEL 1: CHIROPRACTIC CARE	5/29/2009	50.00	41.20
<b>00912132012003700 HAYNES RICHARD L DC</b>				
2/5/2009	LEVEL 1: CHIROPRACTIC CARE	6/9/2009	50.00	41.20
2/10/2009	LEVEL 1: CHIROPRACTIC CARE	6/9/2009	50.00	41.20
<b>00912132012003800 HAYNES RICHARD L DC</b>				
2/12/2009	LEVEL 1: CHIROPRACTIC CARE	6/9/2009	50.00	41.20
2/16/2009	LEVEL 1: CHIROPRACTIC CARE	6/9/2009	50.00	41.20
2/19/2009	LEVEL 1: CHIROPRACTIC CARE	6/9/2009	50.00	41.20
<b>00912132012003900 HAYNES RICHARD L DC</b>				
2/24/2009	LEVEL 1: CHIROPRACTIC CARE	6/9/2009	50.00	41.20
2/26/2009	LEVEL 2: CHIROPRACTIC CARE VISIT	6/9/2009	65.00	52.76
<b>00912132012004000 HAYNES RICHARD L DC</b>				
3/3/2009	LEVEL 1: CHIROPRACTIC CARE	5/29/2009	50.00	41.20
3/5/2009	LEVEL 1: CHIROPRACTIC CARE	5/29/2009	50.00	41.20
<b>00912132012004100 HAYNES RICHARD L DC</b>				
3/10/2009	LEVEL 1: CHIROPRACTIC CARE	6/9/2009	50.00	41.20
3/12/2009	LEVEL 1: CHIROPRACTIC CARE	6/9/2009	50.00	41.20
3/16/2009	LEVEL 1: CHIROPRACTIC CARE	6/9/2009	50.00	41.20
<b>00912132012004200 HAYNES RICHARD L DC</b>				
3/19/2009	LEVEL 1: CHIROPRACTIC CARE	5/29/2009	50.00	41.20
3/23/2009	LEVEL 1: CHIROPRACTIC CARE	5/29/2009	50.00	41.20
3/26/2009	LEVEL 1: CHIROPRACTIC CARE	5/29/2009	50.00	41.20
3/31/2009	LEVEL 1: CHIROPRACTIC CARE	5/29/2009	50.00	41.20
<b>00912132012004300 HAYNES RICHARD L DC</b>				
4/2/2009	LEVEL 1: CHIROPRACTIC CARE	5/29/2009	50.00	41.20
4/7/2009	LEVEL 1: CHIROPRACTIC CARE	5/29/2009	50.00	41.20
<b>00912132012004400 HAYNES RICHARD L DC</b>				
4/4/2009	LEVEL 1: CHIROPRACTIC CARE	5/29/2009	50.00	41.20
4/21/2009	LEVEL 1: CHIROPRACTIC CARE	5/29/2009	50.00	41.20
4/28/2009	LEVEL 1: CHIROPRACTIC CARE	5/29/2009	65.00	41.20

## Compensable

<i>Paid Dte</i>	<i>Type</i>	<i>SubType</i>	<i>Paid To</i>	<i>Paid From</i>	<i>Paid Thru</i>	<i>Paid</i>
11/24/2008	TL	TL	Victim	10/1/2008	11/21/2008	2,433.60
3/19/2009	TL	TL	Victim	12/22/2008	3/18/2009	4,071.60
4/2/2009	TL	TL	Victim	3/19/2009	4/1/2009	655.20
4/16/2009	TL	TL	Victim	4/2/2009	4/15/2009	655.20
4/30/2009	TL	TL	Victim	4/16/2009	4/29/2009	655.20
5/14/2009	TL	TL	Victim	4/30/2009	5/13/2009	655.20
5/28/2009	TL	TL	Victim	5/14/2009	5/27/2009	655.20
6/11/2009	TL	TL	Victim	5/28/2009	6/10/2009	655.20

***Paid to date for Purposes of Restitution***

Report Date: 4/23/2009      Data as of: 4/17/2009

Additional

Claim: VM27437	Bills: 35.35
Victim: HURLEY, CAMERON	Gross Adjustments:
DOI/Crime: 9/30/2008	Compensable: 7,815.60
Offender/s: MEAD, KENNETH WILLIAM FORTE, DEMETRIUS WILLIA	Deduct Overpay Assessed: 0.00
	Total Paid: 7,850.95
	Deduct Restitution Awarded:
Cause ID/s: S1708-1-12816-1 S1708-1-12815-2	Deduct 1st and 3rd Party Recovery:
	Restitution Requested: 7,850.95

***Detail Bills By Line Item***

<i>ICN</i>	<i>Provider</i>	<i>Begin Date</i>	<i>Procedure</i>	<i>Pd Date</i>	<i>Billed</i>	<i>Paid</i>
00831832011003800	KESKEY THOMAS S MD	9/30/2008	XRAY CERVICAL COMPLETE 4 VIEWS	1/6/2009	43.00	9.34
00831832012005500	JACOB JASON SMD	9/30/2008	CAT SCAN HEAD BRAIN WO CONTRAST	12/16/2008	119.00	26.01

***Compensable***

<i>Paid Dte</i>	<i>Type</i>	<i>SubType</i>	<i>Paid To</i>	<i>Paid From</i>	<i>Paid Thru</i>	<i>Paid</i>
11/24/2008	TL	TL	Victim	10/1/2008	11/21/2008	2,433.60
3/19/2009	TL	TL	Victim	12/22/2008	3/18/2009	4,071.60
4/2/2009	TL	TL	Victim	3/19/2009	4/1/2009	655.20
4/16/2009	TL	TL	Victim	4/2/2009	4/15/2009	655.20

# **Appendix D**

CRIME VICTIMS COMPENSATION PROGRAM  
PO BOX 44520, OLYMPIA, WASHINGTON 98504

CAMERON HURLEY  
[REDACTED]  
[REDACTED]

CLAIM ID : VM27437  
CLAIMANT : CAMERON HURLEY  
INJURY DATE : 9/30/08  
MAILING DATE: 11/24/08

\*\*\*\*\*  
\* THIS ORDER BECOMES FINAL 90 DAYS FROM THE DATE IT IS COMMUNICATED TO \*  
\* YOU UNLESS YOU DO ONE OF THE FOLLOWING: \*  
\* 1. YOU MAY FILE A WRITTEN REQUEST FOR RECONSIDERATION WITH THE \*  
\* DEPARTMENT. IF YOU FILE FOR RECONSIDERATION, YOU SHOULD INCLUDE \*  
\* THE REASONS YOU BELIEVE THIS DECISION IS WRONG AND SEND IT TO: \*  
\* CRIME VICTIMS COMPENSATION, P O BOX 44520, OLYMPIA WA 98504-4520. \*  
\* WE WILL REVIEW YOUR REQUEST AND ISSUE ANOTHER ORDER. \*  
\* 2. OR YOU MAY FILE A WRITTEN APPEAL WITH THE BOARD. IF YOU FILE AN \*  
\* APPEAL, SEND IT TO: BOARD OF INDUSTRIAL INSURANCE APPEALS, \*  
\* P O BOX 42401, OLYMPIA WA 98504-2401 OR SUBMIT IT ON AN ELECTRONIC \*  
\* FORM FOUND AT <http://www.biia.wa.gov/>. \*  
\*\*\*\*\*

A TIMELOSS PAYMENT IS MADE AS FOLLOWS:

GROSS ENTITLEMENT:...PAYMENT 100108 THRU 112108 ..... 2433.60  
DEDUCTIONS:

NET ENTITLEMENT ..... 2433.60

Compensation rate based on the following:

From	Thru	Monthly Comp
10/01/2008	11/21/2008	1404.00

Do not cash this warrant if you have returned to work or were released for work by your provider within the period being paid. In this case, return the check to our office for correction.

If you have any questions, call toll free at 1-800-762-3716.

CLAIM ID : VM27437  
CLAIMANT : CAMERON HURLEY  
INJURY DATE : 9/30/08  
MAILING DATE: 11/24/08

KIM VINCENT  
CLAIMS MANAGER  
1-800-762-3716  
FAX #: (360) 902-5333

CRIME VICTIMS COMPENSATION PROGRAM  
PO BOX 44520, OLYMPIA, WASHINGTON 98504

CAMERON HURLEY  
[REDACTED]

CLAIM ID : VM27437  
CLAIMANT : CAMERON HURLEY  
INJURY DATE : 9/30/08  
MAILING DATE: 05/14/09

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*\*\*\*\*  
\* THIS ORDER BECOMES FINAL 90 DAYS FROM THE DATE IT IS COMMUNICATED TO \*  
\* YOU UNLESS YOU DO ONE OF THE FOLLOWING: \*  
\* 1. YOU MAY FILE A WRITTEN REQUEST FOR RECONSIDERATION WITH THE \*  
\* DEPARTMENT. IF YOU FILE FOR RECONSIDERATION, YOU SHOULD INCLUDE \*  
\* THE REASONS YOU BELIEVE THIS DECISION IS WRONG AND SEND IT TO: \*  
\* CRIME VICTIMS COMPENSATION, P O BOX 44520, OLYMPIA WA 98504-4520. \*  
\* WE WILL REVIEW YOUR REQUEST AND ISSUE ANOTHER ORDER. \*  
\* 2. OR YOU MAY FILE A WRITTEN APPEAL WITH THE BOARD. IF YOU FILE AN \*  
\* APPEAL, SEND IT TO: BOARD OF INDUSTRIAL INSURANCE APPEALS, \*  
\* P O BOX 42401, OLYMPIA WA 98504-2401 OR SUBMIT IT ON AN ELECTRONIC \*  
\* FORM FOUND AT <http://www.biaa.wa.gov/>. \*  
\*\*\*\*\*

A TIMELOSS PAYMENT IS MADE AS FOLLOWS:

GROSS ENTITLEMENT: ...PAYMENT 043009 THRU 051309 ..... 655.20  
DEDUCTIONS:

NET ENTITLEMENT ..... 655.20

Compensation rate based on the following:

From	Thru	Monthly Comp
04/30/2009	05/13/2009	1404.00

Do not cash this warrant if you have returned to work or were released for work by your provider within the period being paid. In this case, return the check to our office for correction.

If you have any questions, call toll free at 1-800-762-3716.

CRIME VICTIMS COMPENSATION PROGRAM  
PO BOX 44520, OLYMPIA, WASHINGTON 98504

CAMERON HURLEY  
[REDACTED]

CLAIM ID : VM27437  
CLAIMANT : CAMERON HURLEY  
INJURY DATE : 9/30/08  
MAILING DATE: 04/02/09

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*\*\*\*\*  
\* THIS ORDER BECOMES FINAL 90 DAYS FROM THE DATE IT IS COMMUNICATED TO \*  
\* YOU UNLESS YOU DO ONE OF THE FOLLOWING: \*  
\* 1. YOU MAY FILE A WRITTEN REQUEST FOR RECONSIDERATION WITH THE \*  
\* DEPARTMENT. IF YOU FILE FOR RECONSIDERATION, YOU SHOULD INCLUDE \*  
\* THE REASONS YOU BELIEVE THIS DECISION IS WRONG AND SEND IT TO: \*  
\* CRIME VICTIMS COMPENSATION, P O BOX 44520, OLYMPIA WA 98504-4520. \*  
\* WE WILL REVIEW YOUR REQUEST AND ISSUE ANOTHER ORDER. \*  
\* 2. OR YOU MAY FILE A WRITTEN APPEAL WITH THE BOARD. IF YOU FILE AN \*  
\* APPEAL, SEND IT TO: BOARD OF INDUSTRIAL INSURANCE APPEALS, \*  
\* P O BOX 42401, OLYMPIA WA 98504-2401 OR SUBMIT IT ON AN ELECTRONIC \*  
\* FORM FOUND AT <http://www.biia.wa.gov/>. \*  
\*\*\*\*\*

A TIMELOSS PAYMENT IS MADE AS FOLLOWS:

GROSS ENTITLEMENT:...PAYMENT 031909 THRU 040109 ..... 655.20  
DEDUCTIONS:

NET ENTITLEMENT ..... 655.20

Compensation rate based on the following:

From	Thru	Monthly Comp
03/19/2009	04/01/2009	1404.00

Do not cash this warrant if you have returned to work or were released for work by your provider within the period being paid. In this case, return the check to our office for correction.

If you have any questions, call toll free at 1-800-762-3716.

CLAIM ID : VM27437  
CLAIMANT : CAMERON HURLEY  
INJURY DATE : 9/30/08  
MAILING DATE: 04/02/09

CHERYL DAL SANTO  
CLAIMS MANAGER  
1-800-762-3716  
FAX #: (360) 902-5333



OCC-12816-1KJ

STATE OF WASHINGTON

DEPARTMENT OF LABOR AND INDUSTRIES RECEIVED

CRIME VICTIMS COMPENSATION PROGRAM  
PO BOX 44520, OLYMPIA, WASHINGTON 98504

APR 28 2009

FJC

VICTIM ASSISTANCE UNIT

KING COUNTY V/W PROGRAM  
DIRECTOR: CAMMY HENDRIX  
PROSECTOR: DANIEL T SATTERBERG  
516 THIRD AVENUE, ROOM E542  
SEATTLE WA 98104

CLAIM ID : VM27437  
CLAIMANT : CAMERON HURLEY  
INJURY DATE : 9/30/08  
MAILING DATE: 04/22/09

\*\*\*\*\*  
\* REQUEST FOR ORDERING RESTITUTION, JUDGMENT AND SENTENCE \*  
\* Please allow for additional costs in the future. \*  
\*\*\*\*\*

Offender: Kenneth William Mead; Demetrius William Forte  
Police/Cause #: 08-1-12816-1; 08-1-12815-2  
Charges: Robbery; Burglary  
D.O.B.: 07/06/1991; 01/11/1991  
Crime Date: 09/30/08

Please consider ordering restitution to include Crime Victims Compensation for benefits paid for victim's injuries that resulted from the offender's assault.

Amount due to date \$7850.95..

\*\*\*\*\*

Please list additional offender information if available:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Contact Name: \_\_\_\_\_  
Phone: \_\_\_\_\_

Additional information is available at [www.CrimeVictims.Lni.wa.gov](http://www.CrimeVictims.Lni.wa.gov).

1-800-762-3716

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION ONE**

---

STATE OF WASHINGTON,	)	
	)	
Respondent,	)	
	)	
v.	)	COA NO. 64994-9-1
	)	
DEMITRI FORTE,	)	
	)	
Appellant.	)	

---

**DECLARATION OF SERVICE**

I, PATRICK MAYOVSKY, DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOLLOWING IS TRUE AND CORRECT:

THAT ON THE 10<sup>TH</sup> DAY OF AUGUST, 2010, I CAUSED A TRUE AND CORRECT COPY OF THE **BRIEF OF APPELLANT** TO BE SERVED ON THE PARTY / PARTIES DESIGNATED BELOW BY DEPOSITING SAID DOCUMENT IN THE UNITED STATES MAIL.

[X]     DEMITRI FORTE  
          28819 19<sup>TH</sup> AVENUE S.  
          FEDERAL WAY, WA 98003

**SIGNED** IN SEATTLE WASHINGTON, THIS 10<sup>TH</sup> DAY OF AUGUST, 2010.

x *Patrick Mayovsky*

**FILED**  
**COURT OF APPEALS DIV #1**  
**STATE OF WASHINGTON**  
**2010 AUG 10 PM 4:09**