

FILED
SUPREME COURT
STATE OF WASHINGTON
8/28/2025
BY SARAH R. PENDLETON
CLERK

FILED
Court of Appeals
Division I
State of Washington
8/27/2025 4:43 PM

NO. ____
(COA NO. 86832-2-I) Case #: 1045077

THE SUPREME COURT OF
THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

E.T.-S.W.,

Petitioner.

FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR SNOHOMISH
COUNTY

PETITION FOR REVIEW

CHRISTOPHER PETRONI
Attorney for Petitioner

WASHINGTON APPELLATE PROJECT
1511 Third Avenue, Suite 610
Seattle, WA 98101
(206) 587-2711

TABLE OF CONTENTS

TABLE OF CONTENTS	i
TABLE OF AUTHORITIES	ii
A. INTRODUCTION	1
B. IDENTITY OF PETITIONER	1
C. COURT OF APPEALS DECISION.....	1
D. ISSUE PRESENTED FOR REVIEW	1
E. STATEMENT OF THE CASE	2
F. WHY REVIEW SHOULD BE GRANTED.....	3
Whether a benefits claim number alone proves eligibility for crime victim benefits is an issue of first impression calling for this Court's review.	3
G. CONCLUSION	10

TABLE OF AUTHORITIES

Washington Supreme Court

Standing v. Dep't of Labor & Indus., 92 Wn.2d 463, 598 P.2d 725 (1979).....4

State v. Blazina, 182 Wn.2d 827, 344 P.3d 680 (2015)10

State v. Burke, 196 Wn.2d 712, 478 P.3d 1096 (2021) .6,
7

State v. Morgan, 4 Wn.3d 261, 562 P.3d 360 (2025).4, 8,
9

Washington Court of Appeals

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

State v. E.T-S.W., No. 86832-2-I (July 28, 2025) ..1, 3, 8,
10

Statutes

RCW 13.40.1903

RCW 7.68.1304, 5

RCW 7.68.1705

Rules

RAP 13.4 2, 9, 10

Administrative Rules

WAC 296-30-170.....5, 8, 9

Law Review Articles

Tori Sullivan Lavoie, *Footing the Bill for Juvenile Justice: The Impacts of Legal Financial Obligations on Washington Youth*, 19 Seattle J. for Soc. Just. 579 (2021)10

Travis Stearns, *Legal Financial Obligations: Fulfilling the Promise of Gideon by Reducing the Burden*, 11 Seattle J. for Soc. Just. 963 (2013)10

Other Authorities

Wash. State Dep’t of Labor & Indus., Billing Guidelines for Sexual Assault & DV with Strangulation Examinations (July 2025).....5, 7, 8

A. INTRODUCTION

This petition presents an issue of first impression—whether, in determining a restitution obligation, a list of medical costs and a crime victim benefits claim number alone meet the prosecution’s burden of proving eligibility for crime victim benefits.

B. IDENTITY OF PETITIONER

1. Petitioner E.T.-S.W.¹ asks for review.

C. COURT OF APPEALS DECISION

E.T-S.W. (“Eli”) seeks review of the Court of Appeals’s opinion in *State v. E.T-S. W.*, No. 86832-2-I (July 28, 2025), affirming the restitution obligation in his juvenile disposition.

D. ISSUE PRESENTED FOR REVIEW

The trial court must order a convicted youth to pay restitution if the victim is eligible for crime victim

¹ “Eli” is a pseudonym.

benefits. These benefits typically must be reduced by available insurance, but this limit does not apply to a sexual assault examination for an evidentiary purpose. Here, the prosecution's sole evidence that the exception applied was a ledger of medical bills paid by the crime victim fund and a corresponding claim code. Yet the trial court ordered Eli to pay these costs in full, with no evidence of submission to insurance. In affirming, the Court of Appeals contravened pertinent statutes and regulations and this Court's precedent. RAP 13.4(b)(1).

E. STATEMENT OF THE CASE

Eli pleaded guilty to first-degree child molestation. CP 33. The trial court imposed a special sex offender disposition alternative. CP 13, 15.

The prosecution asked the court to impose \$1,113.17 in restitution, asserting this was the total paid by the compensation program for medical services

the victim received. CP 52, 57. A ledger showed the crime victim fund paid a total of \$1,113.17 for four unspecified bills. CP 57. Two bills were for services provided on September 2, 2021, and two more were for services provided on September 16, 2021. CP 57.

The prosecution provided no other evidence that the medical costs were incurred only for evidentiary purposes. CP 51–57. It provided no evidence any of the costs were submitted to insurance. CP 51–57.

The trial court nevertheless ordered Eli to pay the full amount of \$1,113.17 in restitution. CP 6–7, 18. The Court of Appeals affirmed. Slip op. at 5.

F. WHY REVIEW SHOULD BE GRANTED

Whether a benefits claim number alone proves eligibility for crime victim benefits is an issue of first impression calling for this Court’s review.

The juvenile court must impose restitution for benefits paid to crime victims. RCW 13.40.190(2). The

prosecution bears the burden to prove that the victim's costs qualified for benefits. *State v. Morgan*, 4 Wn.3d 261, 277, 562 P.3d 360 (2025); *State v. Dedonado*, 99 Wn. App. 251, 256, 991 P.2d 1216 (2000). The court must order the convicted youth to pay the “benefits to which the victim is entitled.” *Morgan*, 4 Wn.3d at 272.

When benefits are paid for medical costs, the crime victims' compensation program—and a youth ordered to pay restitution to the program—is only the secondary payer. RCW 7.68.130(3); *Standing v. Dep't of Labor & Indus.*, 92 Wn.2d 463, 469, 598 P.2d 725 (1979). The primary payer is any available insurance, to which medical costs must be submitted before crime victim benefits will be paid. RCW 7.68.130(3), (5).

It follows the juvenile court lacks authority to order a youth to pay the full amount of medical costs when insurance is available. The statute requires that

benefits for medical costs “*shall be reduced* by the amount of any other public or private insurance available.” RCW 7.68.130(1) (emphasis added).

The insurance requirement does not apply to a sexual assault examination “for the purposes of gathering evidence for possible prosecution.” RCW 7.68.170. This exemption applies *only* to examinations “for the purpose of gathering evidence,” and not those that “includ[e] treatment costs” or “require follow-up treatment.” WAC 296-30-170. The provider must submit a report showing any “follow-up visit” “was for the purpose of gathering evidence.” Wash. State Dep’t of Labor & Indus., Billing Guidelines for Sexual Assault & DV with Strangulation Examinations 3 (July 2025) [hereinafter “Billing Guidelines”].²

² <https://lni.wa.gov/es/forms-publications/F800-100-000.pdf>.

In the confrontation context, this Court has held that whether the purpose of a sexual assault examination was to gather evidence depends on the circumstances of the examination. *State v. Burke*, 196 Wn.2d 712, 729, 478 P.3d 1096 (2021). The “intricacies of medical billing systems” alone do not determine the examination’s purpose. *Burke*, 196 Wn.2d at 732 n.12.

The undersigned has found no cases addressing whether administrative codes satisfy the prosecution’s burden to prove eligibility for benefits.

The issue is dispositive in this case. The prosecution’s only evidence of eligibility for benefits was (1) the dates the four medical bills were incurred; (2) the amount of each bill; and (3) a claim number. CP 57. The claim number’s two-letter prefix indicates a sexual assault examination. Billing Guidelines at 4.

The ledger contains no further information about the nature of the services.

As this Court reasoned in *Burke*, the coding category to which a medical service is assigned cannot alone show its purpose was evidentiary. 196 Wn.2d at 732 n.12. The “VX” prefix alone does not meet the prosecution’s burden to prove that each of the four medical services was carried out to collect evidence for potential future prosecution and not for treatment.

In fact, the ledger suggests that two of the bills were *not* incurred for evidentiary purposes. The ledger shows a follow-up visit occurred two weeks after the initial visit. CP 57. Yet the prosecution presented no evidence that the medical provider issued a report to establish these follow-up services were evidentiary. Billing Guidelines at 3. Without such a report, these

follow-up services are not eligible for reimbursement from the crime victim fund. WAC 296-30-170.

The Court of Appeals avoided this issue by misstating Eli's argument. According to the court, Eli "does not dispute that [victim] was an eligible victim," but "asserts that the trial court should have conducted its own calculation of benefits"—something the trial court lacks discretion to do. Slip op. at 5; *Morgan*, 4 Wn.3d at 272. This is not Eli's position.

In the trial court and on appeal, Eli maintained that the prosecution did not prove the medical bills were eligible for crime victim benefits. CP 11–12; Br. of App. at 11–17; Reply Br. of App. at 3–7. In re-casting Eli's argument as one of judicial discretion rather than statutory authority, the Court of Appeals contravened chapter 7.68 RCW, WAC 296-30-170, and this Court's decision in *Morgan*. RAP 13.4(b)(1).

The issue has constitutional dimensions. In upholding mandatory restitution of crime victim benefits against a due process challenge, this Court noted a convicted person may contest “whether a victim qualifies to receive benefits.” *Morgan*, 4 Wn.3d at 277. That is precisely what Eli did in this case. Yet both the trial court and the Court of Appeals rejected this argument out of hand, depriving Eli of any opportunity to challenge the court’s statutory authority to impose the restitution obligation. RP 26; Slip op. at 5; RAP 13.4(b)(3).

This is no trivial issue. Legal financial obligations have a profound negative impact on a person’s ability to build a productive, law-abiding life. *State v. Blazina*, 182 Wn.2d 827, 836–37, 344 P.3d 680 (2015); Travis Stearns, *Legal Financial Obligations: Fulfilling the Promise of Gideon by Reducing the Burden*, 11 Seattle

J. for Soc. Just. 963, 974 (2013). This concern is especially weighty for children, whose financial situations depend on how wealthy or poor their parents are. Tori Sullivan Lavoie, *Footing the Bill for Juvenile Justice: The Impacts of Legal Financial Obligations on Washington Youth*, 19 Seattle J. for Soc. Just. 579, 580 (2021). Whether a juvenile court may impose such a burden on a child based solely on an administrative code is a significant question. RAP 13.4(b)(4).

G. CONCLUSION

This Court should grant review.

Per RAP 18.17(c)(10), the undersigned certifies this petition for review contains 1,309 words.

DATED this 27th day of August, 2025.



Christopher Petroni, WSBA #46966

Washington Appellate Project - 91052
Email: wapofficemail@washapp.org
chris@washapp.org

Attorney for E.T.-S.W.

APPENDIX

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

STATE OF WASHINGTON,

Respondent,

v.

E.T.-S.W.,

Appellant.

No. 86832-2-I

UNPUBLISHED OPINION

BOWMAN, A.C.J. — E.T.-S.W. appeals from the disposition entered on his conviction for child molestation in the first degree. E.T.-S.W. contends that the trial court erred by ordering restitution to the Crime Victims' Compensation Program (CVCP) under RCW 13.40.190(2). We affirm.

FACTS

On April 10, 2024, 17-year-old E.T.-S.W. pleaded guilty to one count of child molestation in the first degree for sexually touching 4-year-old L.W. in September 2021. The same day, he received a special sex offender disposition alternative (SSODA). As part of his SSODA, the court ordered E.T.-S.W. to pay restitution to the Department of Labor and Industries' (L&I's) CVCP.

At the June 2024 restitution hearing, the State requested that the court order E.T.-S.W. to pay \$1,113.17 to the CVCP. In support of its request, the State introduced a document from the CVCP showing that the program paid \$1,113.17 to L.W.'s medical providers in October 2021 and January 2022 for services provided to L.W. in September 2021. E.T.-S.W. objected to the amount,

arguing that the State needed to prove that the medical bills had first been provided to L.W.'s health insurance provider.¹ The State argued that under case law, RCW 13.40.190(2), and the crime victims' compensation act (CVCA), chapter 7.68 RCW, sexual assault examination costs "performed for the purpose of gathering evidence for prosecution shall be paid by the [s]tate." The trial court rejected E.T.-S.W.'s arguments and agreed with the State. It ordered E.T.-S.W. to pay restitution to the CVCP in the amount of \$1,113.17.

E.T.-S.W. appeals.

ANALYSIS

E.T.-S.W. asserts that the trial court erred by ordering restitution to the CVCP in the amount of \$1,113.17 because the State had an obligation to show that L.W.'s medical examination qualified for reimbursement under the CVCA and that she first submitted her medical bills to her insurance company before payment of CVCA benefits. We disagree.

A trial court's restitution order will not be disturbed on appeal absent an abuse of discretion. *State v. Enstone*, 137 Wn.2d 675, 679, 974 P.2d 828 (1999). Application of an incorrect legal analysis or other error of law can amount to abuse of discretion. *State v. Kinneman*, 155 Wn.2d 272, 289, 119 P.3d 350 (2005). Where an issue raises a question of statutory interpretation, our review is de novo. *State v. Gray*, 174 Wn.2d 920, 926, 280 P.3d 1110 (2012).

¹ E.T.-S.W. also argued that only bills for colposcopy exams were eligible for restitution and that there was no evidence L.W. underwent that exam. He also argued that L.W.'s September 2021 medical exam was voluntary rather than required. E.T.-S.W. does not make these arguments on appeal.

The trial court's authority to order restitution derives entirely from statute. *State v. Tobin*, 161 Wn.2d 517, 523, 166 P.3d 1167 (2007). For juvenile offenders, the court's authority derives from RCW 13.40.190. That statute provides, in relevant part, that "the court shall order restitution in all cases where the victim is entitled to benefits under the [CVCA]." RCW 13.40.190(2). The CVCA entitles victims to benefits for any medical treatment caused by the effects of the criminal act, including colposcopy examinations and mental health counseling for victims of child sexual offenses. RCW 7.68.080(1), (2), (5), (8).

Administration of the CVCP is the responsibility of L&I. RCW 7.68.015. Ordinarily, "victims shall use their private insurance coverage" before L&I will pay CVCP benefits. RCW 7.68.130(5). But an exception to this rule exists for sexual assault examinations. RCW 7.68.170. All costs incurred for the examination of the victim of a sexual assault, "when such examination is performed for the purposes of gathering evidence for possible prosecution," must be paid directly by the state. *Id.*

The CVCA does not entitle certain crime victims to benefits, including those who do not timely report the crime to law enforcement, have outstanding legal obligations, or were in the commission of a felony at the time of injury. *State v. Morgan*, 4 Wn.3d 261, 273, 562 P.3d 360 (2025); see RCW 7.68.060, .061. But for victims who are entitled to benefits, "[t]he amount of benefits L&I pays on behalf of a victim is directed by statute." *Morgan*, 4 Wn.3d at 273. And any payment of benefits from the CVCP "creates a debt due and owing to [L&I] by any person found to have committed the criminal act in either a civil or criminal court proceeding in which he or she is a party." RCW 7.68.120(1).

Further, the “debt” created by payment from the CVCP is “not a general obligation that the court later determines in its discretion.” *Morgan*, 4 Wn.3d at 274. Instead, the “debt” is for the specific amount already paid by L&I. *Id.*

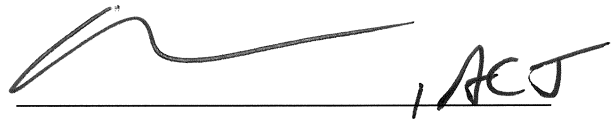
When L&I determines that a victim is entitled to benefits and issues payment from the CVCP, “the trial court orders restitution owed to L&I based on supporting documentation that verifies the payment of these benefits.” *Morgan*, 4 Wn.3d at 274. A criminal defendant may challenge whether the victim is an eligible recipient of benefits, whether the services to the victim were causally connected to the crime, and whether the amount requested accurately reflects the amount paid by L&I. *Id.* at 277. Otherwise, the authority to reduce the amount that must be repaid to the CVCP rests solely with L&I, not the courts. See RCW 7.68.120(5) (“Any requirement for payment due and owing [L&I] by a convicted person under this chapter may be waived, modified downward or otherwise adjusted *by [L&I]* in the interest of justice, the well-being of the victim, and the rehabilitation of the individual.”).² RCW 13.40.190(2) “does not afford courts discretion to modify amounts owed for CVCA benefits.” *Morgan*, 4 Wn.3d at 272 (interpreting identical language in RCW 9.94A.753(7) that “the court shall order restitution in all cases where the victim is entitled to benefits under the [CVCA]”).

Here, the State produced a document from the CVCP showing that the program paid \$1,113.17 to Providence Regional Medical Center and advanced registered nurse practitioner (ARNP) Christa Kleiner for medical services

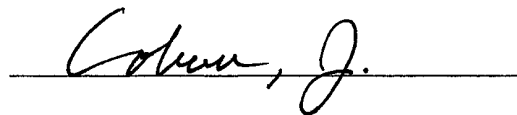
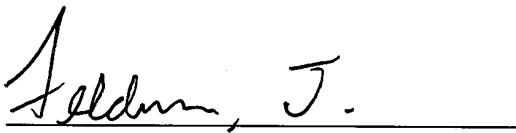
² Emphasis added.

provided to L.W. as the result of E.T.-S.W.'s criminal act.³ The document further shows that the CVCP paid the benefits more than two years before E.T.-S.W.'s disposition hearing in April 2024. E.T.-S.W. does not dispute that L.W. was an eligible victim, that the services were causally connected to his offense, or that the document accurately reflected the amount L&I paid. Instead, he asserts that the trial court should have conducted its own calculation of benefits payable to L.W.'s medical providers. But, as discussed above, administration of the CVCP is the responsibility of L&I. And payment of benefits from the CVCP creates a debt due to L&I in the amount of the benefits paid. The trial court has no authority to modify that amount.

Because L.W. was a crime victim entitled to benefits under the CVCA and the trial court ordered restitution in the amount already paid by L&I, there was no error. We affirm the restitution order.



WE CONCUR:



³ E.T.-S.W. molested L.W. on September 1, 2021. The document provided by the State shows Providence and ARNP Kleiner saw L.W. the next day on September 2, 2021, and again two weeks later on September 16. The CVCP paid for those visits on October 12, 2021 and January 11, 2022. E.T.-S.W. did not object to the introduction of this document.

WASHINGTON APPELLATE PROJECT

August 27, 2025 - 4:43 PM

Transmittal Information

Filed with Court: Court of Appeals Division I
Appellate Court Case Number: 86832-2
Appellate Court Case Title: State of Washington, Respondent v. E.T-S.W., Appellant
Superior Court Case Number: 23-8-00289-0

The following documents have been uploaded:

- 868322_Petition_for_Review_20250827164324D1546725_7052.pdf
This File Contains:
Petition for Review
The Original File Name was washapp.082725-09.pdf

A copy of the uploaded files will be sent to:

- Diane.Kremenich@co.snohomish.wa.us
- diane.kremenich@snoco.org
- nathan.sugg@snoco.org

Comments:

Sender Name: MARIA RILEY - Email: maria@washapp.org

Filing on Behalf of: Christopher Mark Petroni - Email: chris@washapp.org (Alternate Email: wapofficemail@washapp.org)

Address:
1511 3RD AVE STE 610
SEATTLE, WA, 98101
Phone: (206) 587-2711

Note: The Filing Id is 20250827164324D1546725