

IN THE COURT OF APPEALS OF IOWA

No. 6-1061 / 06-0341
Filed February 14, 2007

STATE OF IOWA,
Plaintiff-Appellee,

vs.

BRUCE WAYNE SOGARD,
Defendant-Appellant.

Appeal from the Iowa District Court for Hamilton County, Steven J. Oeth,
District Associate Judge.

Bruce Wayne Sogard appeals from the restitution order arising from his
conviction for fourth-degree theft. **AFFIRMED.**

James E. Fitzgerald, Fort Dodge, for appellant.

Thomas J. Miller, Attorney General, Martha Boesen, Assistant Attorney
General, and Patrick Chambers, County Attorney, for appellee.

Considered by Sackett, C.J., and Huitink and Mahan, JJ.

MAHAN, J.

Bruce Sogard appeals from the restitution order arising from his conviction for fourth-degree theft. We affirm.

I. Background Facts and Proceedings

On October 5, 2004, Raymond Long's residence was burglarized while he was hospitalized for quadruple-bypass surgery. Numerous items were taken, including tools, a handmade hutch, a color television, a handgun, a VCR, and a chain saw. A cell phone left during the incident led the police to Bruce Sogard and three other individuals. Sogard was eventually charged by trial information with burglary in the third degree.

Sogard entered a written guilty plea to a lesser charge of theft in the fourth degree. In doing so, Sogard stated the following:

On or about October 5, 2004 in Hamilton County, Iowa I was in possession of property having a value exceeding \$200. I had reasonable cause to believe the property had been stolen, and the property was in fact stolen property as set out in the Trial Information.

Sogard's written plea also acknowledged he "may be required to make restitution of pecuniary damages to any victim of this crime."

The court accepted his plea and, as part of his sentence, ordered him to pay victim restitution. When the county attorney filed a statement of pecuniary damages for property stolen from the Long home, Sogard filed a resistance, alleging the statement contained property unrelated to his conviction.

At the restitution hearing Sogard argued he was convicted of possession of stolen property, not burglary, and therefore he should not be ordered to pay

restitution for all the property stolen from the Long home. The court rejected his argument and found him jointly and severally liable for \$7175.50 in damages.

On appeal Sogard claims the district court erred in finding a causal connection between his conviction and the damages ordered as restitution.

II. Standard of Review

Our review of a restitution order is for correction of errors at law. *State v. Watts*, 587 N.W.2d 750, 751 (Iowa 1998). The trial court's findings of fact have the effect of a special verdict. *Id.* When reviewing a restitution order, we determine whether the district court's findings lack substantial evidentiary support, or whether the court has not properly applied the law. *State v. Bonstetter*, 637 N.W.2d 161, 165 (Iowa 2001). While it is the State's burden to prove by a preponderance of the evidence that the amount of damages requested is causally connected to the criminal acts, *State v. Tutor*, 538 N.W.2d 894, 897 (Iowa Ct. App. 1995), the burden of demonstrating an abuse of discretion concerning the restitution ordered falls squarely on the defendant. *State v. Storrs*, 351 N.W.2d 520, 522 (Iowa 1984). We affirm a restitution award if it is within a reasonable range of the evidence. *Watts*, 587 N.W.2d at 752.

III. Discussion

Restitution is governed by chapter 910 of the Iowa Code and is mandatory in all criminal cases involving a guilty plea. Iowa Code § 910.2 (2003). Restitution "must rest on a causal connection between the established criminal act and the injury to the victim." *State v. Holmberg*, 449 N.W.2d 376, 377 (Iowa 1989). Once the causal connection is established, chapter 910 "allows recovery of 'all damages' . . . which the state can show by a preponderance of the

evidence.” *Id.* (citation omitted). Restitution “is not limited by the parameters of the offense for which the defendant enters a guilty plea,” but may be extended to any damages sustained by the victim of a crime which, with some exceptions, would be recoverable against the offender in a civil action. *Watts*, 587 N.W.2d at 751-52; see also *Holmberg*, 449 N.W.2d at 377-78 (defendant’s plea to lesser offense of computer theft in third-degree, not involving more than \$500 in property or services, did not preclude court from ordering restitution to full extent of losses caused by defendant’s actions).

Sogard contends the district court abused its discretion and exceeded its statutory authority when it used the trial information and attached minutes of testimony as evidence “to create a causal connection” between his acts and Long’s damages. We disagree.

In his written plea, Sogard stated he possessed stolen property on October 5, 2004. He also stated “the property was in fact stolen property as set out in the Trial Information.” Because Sogard incorporated the trial information into his guilty plea, the court did not err when it looked to the trial information to conclude his criminal activities were causally connected to Raymond Long’s property loss.

Sogard further argues the amount of ordered restitution is excessive because it orders him to pay full restitution for damages from the burglary when he was only convicted of the lesser offense of possession of stolen property.

A restitution order is not excessive if it bears a reasonable relationship to the damage caused by the offender’s criminal act. *Bonstetter*, 637 N.W.2d at 165. The restitution for victim damages is not limited to convicted offenses, but is

available for damages caused by an offender's "criminal activities," which include nearly any admitted or uncontested crime, whether or not that crime is ever prosecuted. Iowa Code § 910.1(1).

We find the State sufficiently established the restitution fixed by the court in this case. As mentioned above, Sogard identifies the stolen property as that "set out in the Trial Information." The trial information makes specific mention of the October 5, 2004 burglary at the Long home. The attached minutes of testimony also indicate Sogard was present during the burglary. This, when coupled with the fact he admits possessing the stolen property contained in the trial information *on the day of the burglary* supports a reasonable inference that his criminal activities caused damage in an amount equal to the amount of property stolen from the Long home.

The State presented multiple witnesses to describe the missing property and to indicate the value of such property. The court-ordered restitution equals the amount identified by the witnesses and therefore rests within a reasonable range of the evidence.

IV. Conclusion

The record supports a causal connection between Sogard's criminal activities and the restitution ordered in this case. Accordingly, we affirm the decision of the district court.

AFFIRMED.