

**IN THE COURT OF APPEALS OF IOWA**

No. 7-337 / 06-1871  
Filed June 27, 2007

**STATE OF IOWA,**  
Plaintiff-Appellee,

**vs.**

**AARON JULIAN D'AMICO,**  
Defendant-Appellant.

---

Appeal from the Iowa District Court for Polk County, Robert A. Hutchison,  
Judge.

Defendant appeals the order of restitution in this case involving first-degree theft. **AFFIRMED.**

Maria Ruhtenberg of Whitfield & Eddy, P.L.C., Des Moines, for appellant.

Thomas J. Miller, Attorney General, Elisabeth S. Reynoldson, Assistant Attorney General, John P. Sarcone, County Attorney, and Jim Ward, Assistant County Attorney, for appellee.

Considered by Huitink, P.J., and Zimmer, J., and Beeghly, S.J.\*

\*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2007).

**BEEGHLY, S.J.****I. Background Facts & Proceedings**

Aaron D'Amico took a red 2006 Volkswagen Jetta GLI from Carousel Motors in Iowa City on June 26, 2006. The car had a list price of \$26,709. The car was recovered by police officers the next day in Des Moines. The door panels were loose, but there was no major damage to the car. D'Amico pled guilty to first-degree theft. He was sentenced to a term of imprisonment not to exceed ten years, and ordered to pay restitution of \$3,075 to Carousel Motors.

D'Amico filed a request for a restitution hearing. Patrick Lind, the general manager of Carousel Motors, testified the company spent \$150 to get the car back to Iowa City, \$300 on inspection and repair, and \$125 on cleanup. Lind stated that if the car had not been stolen the company would only have accepted a sales price of about \$1,000 off the list price. He stated that because the car had been stolen the car was worth about ten percent less, or about \$2,500. The car was actually sold for \$23,209.

The district court determined the amount of \$3,075 was correct. The court added \$2,500 for the discount to the vehicle, plus the recovery, repair and clean-up costs totalling \$575, to reach the amount of \$3,075. D'Amico appeals.

**II. Standard of Review**

Our review of a restitution order is for the correction of errors at law. *State v. Klawonn*, 688 N.W.2d 271, 274 (Iowa 2004). We are bound by the district court's findings of fact so long as they are supported by substantial evidence. *State v. Paxton*, 674 N.W.2d 106, 108 (Iowa 2004).

### III. Merits

Iowa Code section 910.2 (2005) provides that a sentencing court must order restitution to be paid by an offender to the victim of the crime. *State v. Bonstetter*, 637 N.W.2d 161, 165 (Iowa 2001). Restitution is the payment of pecuniary damages. Iowa Code § 910.1(4). Pecuniary damages are defined as:

[A]ll damages to the extent not paid by an insurer, which a victim could recover against the offender in a civil action arising out of the same facts or event, except punitive damages and damages for pain, suffering, mental anguish, and loss of consortium.

Iowa Code § 910.1(3).

The statute clearly indicates restitution to a victim depends upon what the victim could obtain in a civil action against the defendant. *Paxton*, 674 N.W.2d at 108. “The rationale of restitution under criminal law is similar to the rationale of tort under civil law.” *Bonstetter*, 637 N.W.2d at 165. A victim is entitled to all damages causally connected to the crime. *State v. Mayberry*, 415 N.W.2d 644, 645 (Iowa 1987); *State v. Idhe*, 532 N.W.2d 827, 829 (Iowa Ct. App. 1995). As long as the restitution order bears a reasonable relationship to the damage caused by the offender’s criminal act it is not excessive. *Bonstetter*, 637 N.W.2d at 165. This reasonable relationship must be shown by a preponderance of the evidence. *Id.* at 166; *Idhe*, 532 N.W.2d at 829.

D’Amico claims Carousel Motors should not be entitled to anything for diminution in value to the car. He asserts that where the cost of repair did not exceed the difference in market value, then the measure of damages should be the cost of repair plus the reasonable value of the use of the vehicle. See *Long v. McAllister*, 319 N.W.2d 256, 261 (Iowa 1982).

Application of this rule, however, would not fully compensate Carousel Motors for its loss. Before the car was stolen, Carousel Motors intended to sell the car for at least \$25,709, which was \$1,000 off the list price of \$26,709. Lind testified the company was required to reveal to potential buyers that the car had been stolen, and this made the car worth \$2,500 less than it was before. See *State v. Watts*, 587 N.W.2d 750, 752 (Iowa 1998) (noting a twenty-five percent reduction in the valuation of stolen clothing for purposes of determining whether the amount of restitution was proper). These figures are supported by the fact the car sold for \$23,209, which is \$3,500 below the list price.

The restitution amount is not excessive because it bears a reasonable relationship to the damage caused by D'Amico's criminal act. We determine the district court used a proper method to calculate damages, and the restitution amount is supported by substantial evidence. We affirm the district court.

**AFFIRMED.**