

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio,	:	
Plaintiff-Appellee,	:	
v.	:	Nos. 14AP-866 (C.P.C. No. 13CR-6211)
Ronald Nigh, Jr.,	:	14AP-869 (C.P.C. No. 14CR-4120)
Defendant-Appellant.	:	(REGULAR CALENDAR)
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D E C I S I O N

Rendered on June 18, 2015

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*Ron O'Brien*, Prosecuting Attorney, and *Seth L. Gilbert*, for appellee.

*Yeura Venters*, Public Defender, and *Emily L. Huddleston*, for appellant.

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APPEALS from the Franklin County Court of Common Pleas

TYACK, J.

{¶ 1} Ronald Nigh, Jr., is appealing from a portion of his sentence. He assigns two errors for our consideration:

[I.] The trial court erred by ordering restitution when the record did not contain competent credible evidence establishing the amount of loss sustained by the victim.

[II.] The trial court was not authorized to order restitution on the theft offense because the damage to the vehicle was a direct and proximate cause of reckless driving from failure to comply with the order or signal of a police officer conviction.

{¶ 2} We address the second assignment of error first.

{¶ 3} Nigh was indicted on a charge of theft as a felony of the fourth degree. He ultimately entered a guilty plea to that charge. He eventually appeared for sentencing and was sentenced to a term of incarceration of 18 months with 188 days of jail credit.

{¶ 4} As a part of the sentencing proceeding, he was ordered to pay restitution in the sum of \$7,100. In the second assignment of error, his counsel argues that an award of restitution was not appropriate because the theft did not damage the motor vehicle Nigh stole, but subsequent actions damaged the vehicle.

{¶ 5} We are not in agreement with the proposition that when a person steals a motor vehicle and then damages the motor vehicle as a result of being in a collision, the thief is not subject to a restitution order for the damage caused.

{¶ 6} The second assignment of error is overruled.

{¶ 7} The more challenging issue for us to resolve is the adequacy of the proof of an appropriate restitution order in this case.

{¶ 8} Around the time the car was stolen, the woman whose car was stolen stopped making payments on the car.

{¶ 9} The record before the trial court contains no information about the conditions of the car when it was stolen. The record contains no information about the insurance payments received as a result of a collision which apparently occurred when Nigh fled from police.

{¶ 10} In short, the hearing before the trial court did not provide the information necessary for the trial court to accurately ascertain the actual financial loss resulting from the theft and who or who all sustained that loss. The original restitution order was made only for the benefit of the woman whose car was stolen. More information was required than a reference to Kelley Blue book for average value of such vehicles and a claim that the vehicle sold at an auto auction later for a sum less than the Kelley Blue book value.

{¶ 11} The first assignment of error is sustained.

{¶ 12} Based on the foregoing, the first assignment of error is sustained. The second assignment of error is overruled. The judgment of the Franklin County Court of Common Pleas is affirmed in part and reversed in part. The restitution order part of the sentencing entry is vacated and the case is remanded to the trial court for a determination of an appropriate order of restitution in accord with the above.

*Judgment affirmed in part and reversed in part; case  
remanded with instructions.*

DORRIAN and LUPER SCHUSTER, JJ., concur.

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