

IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
MONTGOMERY COUNTY

STATE OF OHIO

Appellee

v.

RYAN EUGENE MITCHELL

Appellant

:
:
:
:
:
:
:
:
:
:
:

C.A. No. 30735

Trial Court Case No. 2025 TRC 01247
E

(Criminal Appeal from Municipal Court)

**FINAL JUDGMENT ENTRY &
OPINION**

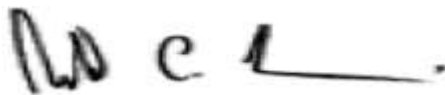
.....

Pursuant to the opinion of this court rendered on September 25, 2026, the judgment of the trial court is affirmed in part, reversed in part, and remanded for further proceedings consistent with the opinion.

Costs to be paid as follows: 50% by the Appellant and 50% by the Appellee.

Pursuant to Ohio App.R. 30(A), the clerk of the court of appeals shall immediately send a copy of the court's ruling to each party and note that action on the docket. Additionally, pursuant to App.R. 27, the clerk of the court of appeals shall send a certified copy of this judgment, which constitutes a mandate, to the clerk of the trial court and note the service on the appellate docket.

For the court,



RONALD C. LEWIS, PRESIDING JUDGE

HUFFMAN, J., and HANSEMAN, J., concur.

OPINION
MONTGOMERY C.A. No. 30735

ARVIN S. MILLER, Attorney for Appellant
JAMES D. MILLER, Attorney for Appellee

LEWIS, P.J.

{¶ 1} Defendant-appellant Ryan Eugene Mitchell appeals from a judgment of the Montgomery County Municipal Court ordering him to pay \$1,958.74 in restitution in connection with his conviction of one count of driving while under the influence of alcohol or drug of abuse, a first-degree misdemeanor. For the following reasons, we reverse the judgment in part, affirm it in part, and remand this cause to the trial court to resentence Mitchell in accordance with this opinion.

I. Facts and Procedural History

{¶ 2} On May 12, 2025, Mitchell was involved in a traffic crash with B.B. in Riverside, Ohio. Mitchell, who was driving behind B.B.'s 2024 Ford pick-up truck, failed to slow down with the traffic or maintain an assured clear distance and collided with B.B.'s truck, which caused disabling damage to B.B.'s truck. After striking B.B.'s truck, Mitchell fled the scene but was located shortly thereafter, and his vehicle was towed. Mitchell was issued a traffic citation for driving while under the influence of alcohol or a drug of abuse ("OVI") in violation of R.C. 4511.19(A)(1)(a), a first-degree misdemeanor; failure to stop after an accident in violation of R.C. 4549.02, a first-degree misdemeanor; and operating a vehicle without reasonable control in violation of R.C. 4511.202, a minor misdemeanor.

{¶ 3} Mitchell entered a guilty plea to one count of OVI in exchange for the State's dismissal of the remaining charges. There was no agreement as to restitution. The trial court accepted Mitchell's guilty plea and scheduled the case for sentencing.

{¶ 4} A restitution hearing was held on October 7, 2025, at which B.B. testified and presented 12 exhibits in support of her restitution request. B.B. testified that, as a result of the May 12, 2025 crash, her vehicle was deemed a total loss. B.B. decided to replace her totaled truck with one that had the same color, year, make, and model as her wrecked vehicle. B.B. found a similar truck in Colorado. B.B. flew to Colorado, purchased the truck, and drove it back to Ohio.

{¶ 5} B.B. sought \$1,958.74 in restitution comprised of the following expenses: (1) \$674.16 for the sum of the amount she had already paid of the extended warranty for the wrecked truck (\$214.16) and the additional cost to purchase a new extended warranty for the new truck (\$460); (2) \$175 that B.B. estimated that she had spent out of pocket to compensate various people who had provided her transportation while she was without a vehicle; (3) \$93.94 to remove after-market rims from the wrecked vehicle; (4) \$99.92 to attach the after-market rims to the new vehicle; (5) \$48.04 for an after-market replacement part; (6) \$128.98 for a one-way airline ticket to Colorado to purchase the new vehicle; (7) \$25.00 for gas; (8) \$112.51 for one night at a hotel in Colorado; (9) \$101.19 for one night at a hotel on the drive from Colorado to Ohio; and (10) \$500 for B.B.'s insurance policy deductible.

{¶ 6} B.B. testified that she had made a claim through her own insurance company for her losses, but the insurance company had not yet completed the process of subrogation with Mitchell's insurance company. B.B. had received payment for the value of her vehicle minus the \$500 deductible. Mitchell did not dispute the \$500 deductible as restitution but contested whether the remaining expenses were directly and proximately related to his offense.

{¶ 7} On November 18, 2025, the parties appeared for sentencing. The State requested that Mitchell be ordered to pay \$1,958.74 based on the evidence presented at the restitution hearing. Mitchell argued that he should not be ordered to pay restitution beyond the \$500 deductible because the additional expenses identified by B.B. were not directly and proximately caused by his actions. The trial court sentenced Mitchell to serve 180 days in jail, with 177 days suspended and the additional 3 days to be served in the Driver Intervention Program. Mitchell was placed on community control for a period of one year, ordered to obtain a mental health and drug and alcohol assessment, and ordered to pay a \$565 mandatory fine, court costs, and \$1,958.74 in restitution. Mitchell timely appealed and raises one assignment of error for review.

II. The Trial Court Abused its Discretion by Ordering Mitchell to Pay Restitution for Expenses Not Directly and Proximately Caused by His Criminal Conduct.

{¶ 8} In his sole assignment of error, Mitchell argues that the trial court abused its discretion in ordering him to pay \$1,958.74 in restitution. He argues that the amount was improper because it exceeded the amount of economic loss suffered by B.B. as a direct and proximate result of his offense. We agree.

A. Applicable Law

{¶ 9} “Generally, a trial court’s imposition of restitution is reviewed on appeal for an abuse of discretion.” *State v. Brown*, 2024-Ohio-2004, ¶ 12 (2d Dist.), citing *State v. Wilson*, 2015-Ohio-3167, ¶ 11 (2d Dist.). “A trial court abuses its discretion when it acts in an unreasonable, arbitrary or unconscionable manner.” *State v. Finnerty*, 45 Ohio St.3d 104, 107 (1989).

{¶ 10} R.C. 2929.28 governs the financial sanctions that may be imposed in misdemeanor cases, including restitution. If an offender is being sentenced for a criminal offense as defined in R.C. 2930.01 (Marsy's Law), a court imposing a sentence upon the offender for a misdemeanor crime shall sentence the offender to make restitution pursuant to R.C. 2929.28 and 2929.281. The court shall determine the amount of restitution to be paid by the offender by a preponderance of the evidence, but the amount of restitution "shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense." R.C. 2929.28(A)(1).

{¶ 11} "Economic loss" is defined, in part, as "any economic detriment suffered by a victim as a direct and proximate result of the commission of an offense," including any property loss. R.C. 2929.01(L).

Economic loss includes, but is not limited to, the following:

(1) Full or partial payment for the value of stolen or damaged property.

The value of stolen or damaged property shall be the replacement cost of the property or the actual cost of repairing the property when repair is possible.

(2) Medical expenses;

(3) Mental health counseling expenses;

(4) Wages or profits lost due to injury or harm to the victim as determined by the court. Lost wages include commission income as well as base wages. Commission income shall be established by evidence of commission income during the twelve-month period prior to the date of the crime for which restitution is being ordered, unless good cause for a shorter time period is shown.

(5) Expenses related to making a vehicle or residence accessible to the victim if the victim is partially permanently disabled or totally permanently disabled as a direct result of the crime.

R.C. 2929.281(A). “The amount of restitution shall be reduced by any payments to the victim for economic loss made or due under a policy of insurance or governmental program.” *Id.*

{¶ 12} “Whether something is an economic loss ‘is dependent on whether the loss is an economic detriment suffered by the victim that is the proximate result of the offense at issue.’” *State v. Carson*, 2024-Ohio-5407, ¶ 11 (2d Dist.), quoting *State v. Carroll*, 2015-Ohio-4109, ¶ 12 (2d Dist.). “[A] consequence is a direct and proximate result of an act when the consequence is foreseeable and is produced by the natural and continuous sequence of events following the act.” *State v. Yerkey*, 2022-Ohio-4298, ¶ 16.

{¶ 13} “When reviewing whether a restitution order was a direct and proximate result of the commission of the offense, appellate courts review the record to determine whether it supports the trial court’s findings regarding causation.” *State v. Smith*, 2023-Ohio-126, ¶ 19 (11th Dist.). “A trial court abuses its discretion when it orders restitution that does not bear a reasonable relationship to the actual financial loss suffered as a result of the defendant’s offense and if the award of restitution is not supported by competent, credible evidence in the record from which the court can discern the amount of restitution to a reasonable degree of certainty.” (Cleaned up.) *Carson* at ¶ 14.

B. Analysis

{¶ 14} There is no dispute that the substantial damage to B.B.’s truck was proximately caused by Mitchel’s OVI offense. There is also no dispute that, at the time of the crash, both parties had insurance policies covering their vehicles. The question before the trial court was the amount of restitution to which B.B. was entitled.

{¶ 15} B.B. testified that her insurance company had reimbursed her for the value of her truck, minus the \$500 deductible. A copy of B.B.'s insurance policy was submitted as an exhibit during the restitution hearing and reflected a \$500 deductible. Though Mitchell argues on appeal that the trial court should not have granted B.B. restitution for her deductible, at both the restitution and the sentencing hearings, he conceded that she was entitled to that amount. The cost of having to pay an insurance deductible is a reasonably foreseeable cost directly and proximately related to Mitchell's OVI offense. Accordingly, B.B. was entitled to restitution for her \$500 insurance deductible and the trial court did not abuse its discretion in ordering Mitchell to pay this \$500. Notably, if B.B. is ultimately reimbursed for the \$500 deductible by an insurance company, Mitchell may file a motion in the trial court for modification of the payment terms to obtain a reduction in the amount of restitution because of a payment to the victim for economic loss made under a policy of insurance. R.C. 2929.28(A)(1); R.C. 2929.281(A).

{¶ 16} We conclude that the remaining expenses claimed by B.B. did not flow as a natural and foreseeable consequence of the commission of Mitchell's offense for them to constitute economic losses. Under these facts, the economic loss to B.B. that directly and proximately resulted from Mitchell's OVI was the value of her damaged property, which is equal to the replacement cost of the property. R.C. 2929.281(A)(1). B.B. testified that she was reimbursed through insurance for the value of her truck, minus the \$500 deductible. The additional expenditures B.B. incurred were her personal choices that indirectly flowed from the OVI crash. They were not foreseeable as a natural and continuous sequence from the commission of the offense.

{¶ 17} We are not unsympathetic to B.B.'s desire to replace her wrecked vehicle with a vehicle similar to the one damaged by Mitchell. But the restitution statute limits recovery

to the victim's "economic loss," which must be directly and proximately related to defendant's criminal conduct. The additional expenses incurred by B.B. were not natural and foreseeable consequences of Mitchell's OVI offense. Rather, these additional expenses reflected B.B.'s decision to make her replacement vehicle as similar to her wrecked vehicle as possible. The additional expenses sought by B.B. may or may not be recoverable as civil damages, but they do not fall within the criminal-law definition of "economic loss." As the Ohio Supreme Court explained:

No one on this court thinks that victims should not be made whole. But to what extent court-ordered restitution as part of a criminal case may be used to make a victim whole is a matter determined by statute and the Constitution, as explained above. Moreover, it is important to recall that restitution through the criminal-justice system is not the only recourse for crime victims. A crime victim has the same access to the civil-justice system as anyone who has been the victim of a tort and, moreover, may seek recovery for his or her losses from the crime-victims' compensation funds administered by the Ohio Attorney General and the Court of Claims, which is helpful in cases in which the perpetrator is judgment-proof. There is also a countervailing policy consideration—if restitution were to be expanded to include economic detriments that were not "direct and proximate result[s] of the commission of the offense," R.C. 2929.28(A)(1); R.C. 2929.18(A)(1), we would risk mutating sentencing hearings throughout the state into civil trials of all grievances the victim may have against the offender, regardless of their relation to the crimes at issue. For the sake of prompt criminal-justice proceedings across the state, that is a pitfall to avoid.

Yerkey, 2022-Ohio-4298, at ¶ 18.

{¶ 18} The record before us establishes that B.B. was entitled to \$500 restitution. The trial court abused its discretion when it awarded a restitution amount of \$1,958.74, which exceeded “the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense.” Mitchell’s assignment of error is sustained in part and overruled in part.

III. Conclusion

{¶ 19} Having sustained the assignment of error in part, we reverse the judgment of the trial court in part and remand this cause to the trial court for resentencing not inconsistent with this opinion. We affirm the judgment in all other respects.

.....

HUFFMAN, J., and HANSEMAN, J., concur.