

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

STATE OF OHIO

Appellee

v.

JAMES TROY ALLEN

Appellant

:
:
:
:
:
:
:
:
:
:
:

C.A. No. 2026-CA-6

Trial Court Case No. 24-CR-580

(Criminal Appeal from Common Pleas
Court)

**FINAL JUDGMENT ENTRY &
OPINION**

.....

Pursuant to the opinion of this court rendered on October 9, 2026, the judgment of the trial court ordering appellant to pay restitution to the victim is affirmed, and the matter is remanded to the trial court solely to amend the sentencing entry nunc pro tunc to reflect the correct amount of restitution awarded to the victim.

Costs to be paid as stated in App.R. 24.

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,



ROBERT G. HANSEMAN, JUDGE

LEWIS, P.J., concurs.

HUFFMAN, J., concurs in judgment only.

OPINION
CLARK C.A. No. 2026-CA-6

JACOB S. SEIDL, Attorney for Appellant
JOHN M. LINTZ, Attorney for Appellee

HANSEMAN, J.

{¶ 1} James Troy Allen appeals from the judgment of the Clark County Common Pleas Court ordering him to pay \$901.82 in restitution after he pled no contest to attempted breaking and entering. For the reasons outlined below, the judgment of the trial court is affirmed, and the matter is remanded to the trial court for the sole purpose of issuing a nunc pro tunc sentencing entry that reflects the correct amount of restitution awarded to the victim.

Facts and Course of Proceedings

{¶ 2} On July 30, 2024, a Clark County grand jury returned an indictment charging Allen with one fifth-degree felony count of breaking and entering in violation of R.C. 2911.13(A). The breaking and entering charge stemmed from allegations that on July 20, 2024, Allen, with the purpose to remove or damage property, trespassed into an unoccupied building at 2214 Lexington Avenue in Springfield, Ohio, by force, stealth, or deception. Approximately one year after his indictment, Allen pled no contest to a reduced charge of first-degree misdemeanor attempted breaking and entering in violation of R.C. 2923.02(A) and 2911.13(A). The trial court found Allen guilty of the attempt offense and scheduled the matter for a restitution and sentencing hearing.

{¶ 3} At the beginning of the restitution portion of the hearing, the parties advised the trial court that the issue of whether restitution should be ordered was in dispute, but that if the court decided it was appropriate to impose restitution, the parties agreed that the court should impose no more than \$901.88. Allen's counsel later clarified that the agreed-upon

amount of restitution was actually no more than \$901.82. The State did not object to counsel's clarification.

{¶ 4} To establish that restitution was appropriate, the State presented testimony from Mario Troutman. Troutman testified that he had purchased the property at 2214 Lexington Avenue and that he owned the property on the day of Allen's attempted breaking and entering. Troutman identified photographs of the property taken on the day of the offense. One of the photographs, marked as State's Exhibit 2, depicted a corner of a room where there was a large opening in the hardwood floor that exposed the floor joists. The photograph also showed a tool bag, a cardboard box full of scrap materials, and several floorboards lying near the opening in the floor. The floorboards lying near the opening in the floor had nails sticking through them. They were the same size and type of floorboards used for the existing floor. Accordingly, the photograph appeared to show that someone had pulled up the floorboards from the floor. Troutman also identified a photograph showing a large amount of scraps and debris on the floor. See State's Exhibit 3.

{¶ 5} Troutman testified that prior to purchasing 2214 Lexington Avenue, he had walked through the property with its previous owner, Donna Jean Allen—Allen's mother. Troutman claimed that, at the time of the walkthrough, he noticed that the area of the floor shown in State's Exhibit 2 was unlevel, but that there was no opening in the floor or any floorboards missing or pulled up. He also testified that there was some debris on the floor, but not as much as shown in State's Exhibit 3.

{¶ 6} Troutman testified that he had to pay for nails, lumber, and subflooring to fix the opening in the floor. In addition, Troutman testified that he had to pay \$95 for Romex wire to replace wiring that had been ripped out from the wall sometime after his walk-through of the property. Troutman provided the trial court with receipts for the cost of all the materials that

he used to repair the floor and wiring, which he claimed totaled \$1,050.65. State's Exhibit 4; Restitution Hearing Tr. 16. Troutman did not request any restitution for the cost of labor.

{¶ 7} Allen also testified at the restitution hearing and explained that the property in question had been the site of his family's plumbing and heating business since 1967. Allen testified that he had worked for the family business, but he became incarcerated. He testified that, following his release from prison in 2020, he returned to find the property in complete disarray due to his father passing away in 2017. Allen identified several photographs showing the current condition of the property. The photographs showed that the property was in disrepair with an abundance of trash and scrap materials lying around. Despite the property's run-down condition, Allen testified that he had continued to run his own plumbing business from the property.

{¶ 8} Allen testified regarding the opening in the hardwood floor, which he stated was located in the "back corner of the shop" at the "very left-handed corner." Restitution Hearing Tr. 42. He testified that the floor joists underneath the floor had termite damage and had fallen, causing the floor to sag. He also testified that he had been in the process of repairing the floor since December 2023 or January 2024, and thus he had opened up the floor months prior to the date of his attempted breaking and entering offense.

{¶ 9} Allen recounted that he had used his key to enter the property on the day of the offense, which was a Saturday. He claimed that his mother had called him a few days before, and she had told him that the property was going to be sold and that he had until Monday to remove all of his belongings. Allen testified that he never ripped out any wiring and that he did not pull up the floorboards on the day of the offense. Allen, however, admitted that he had brought his tool bag to the property on the date in question and identified his tool bag as the same one sitting near the opening in the floor in the photographic evidence.

{¶ 10} Following the restitution hearing, the trial court sentenced Allen to 97 days in jail, gave him 97 days of jail-time credit for time served, and ordered him to pay restitution to Troutman in the agreed-upon amount of \$901.82. The trial court's corresponding judgment entry incorrectly indicated that the trial court ordered Allen to pay \$901.02 in restitution. Allen now appeals from the trial court's order of restitution and raises a single assignment of error for review.

Assignment of Error

{¶ 11} Under his assignment of error, Allen challenges the trial court's restitution order on grounds that the State failed to prove that the claimed economic loss was directly and proximately caused by his offense. We disagree.

R.C. 2929.28

{¶ 12} R.C. 2929.28 governs financial sanctions for misdemeanor offenses. The statute permits a trial court to order a defendant to pay restitution to the victim of the defendant's offense "in an amount based on the victim's economic loss." R.C. 2929.28(A)(1). It also states that "[t]he amount the court orders as 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." *Id.*

{¶ 13} As we recently stated in *State v. Hearn*, 2026-Ohio-854, ¶ 11-12 (2d Dist.):

"Economic loss" is defined as "any economic detriment suffered by a victim as a direct and proximate result of the commission of an offense" and specifically includes "property loss." R.C. 2929.01(L). Therefore, "[w]hether 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.

“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.); *accord In re L.M.*, 2025-Ohio-5839, ¶ 15 (9th Dist.). “The evidence in the record must be enough to substantiate the relationship of the offender’s criminal conduct to the amount of the victim’s loss.” *Cleveland v. Fuller*, 2023-Ohio-1669, ¶ 13 (8th Dist.), citing *State v. Norton*, 2015-Ohio-2516, ¶ 44 (8th Dist.).

{¶ 14} “A restitution award must be limited to those acts that constitute the crime of conviction.” *State v. Colon*, 2010-Ohio-492, ¶ 9 (2d Dist.), citing *State v. Hubbell*, 2004-Ohio-398, ¶ 11 (2d Dist.). In other words, “[t]he amount of restitution ordered by the trial court must be based on the actual loss caused by the offender’s criminal conduct.” *State v. Hootman*, 2019-Ohio-607, ¶ 48 (5th Dist.), quoting *State v. Peterman*, 2010-Ohio-211, ¶ 6 (12th Dist.). “[A]s a matter of law, an offender cannot be ordered to pay restitution for damage arising from a crime of which he was not convicted.” *State v. Rohrbaugh*, 2010-Ohio-6375, ¶ 17 (3d Dist.), quoting *State v. Williams*, 2004-Ohio-2801, ¶ 23 (3d Dist.).

{¶ 15} R.C. 2929.28(A)(1) gives trial courts broad discretion in awarding restitution in misdemeanor cases; therefore, we review the trial court’s restitution order for abuse of discretion. *State v. Graham*, 2014-Ohio-4250, ¶ 51 (2d Dist.), citing *State v. Dolphin*, 2014-Ohio-3434, ¶ 24 (2d Dist.); *Hearns* at ¶ 9. A trial court abuses its discretion when it orders

restitution in an amount that has not been determined to bear a reasonable relationship to the actual loss suffered as a result of the defendant's offense. *Hearns* at ¶ 13; *State v. Ganguly*, 2015-Ohio-845, ¶ 27 (10th Dist.). "In addition, a trial court abuses its discretion 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." *State v. Veal*, 2026-Ohio-488, ¶ 19 (2d Dist.), quoting *State v. Williams*, 2017-Ohio-125, ¶ 14 (2d Dist.). "The State bears the burden of establishing the restitution amount." *Id.*, quoting *State v. Moore*, 2023-Ohio-3318, ¶ 11, (1st Dist.), quoting *State v. Caldwell*, 2023-Ohio-355, ¶ 16 (4th Dist.).

Analysis

{¶ 16} In this case, the State presented evidence establishing that there were no ripped-up floorboards nor any opening in the floor of the property when Troutman conducted his pre-purchase walkthrough of the property with Allen's mother. The photographic evidence showing the condition of the floor on the date of Allen's offense (when Troutman owned the property) established that a portion of the floor had been ripped up and that a tool bag was lying near the damaged area of the floor and the ripped-up floorboards. Allen admitted that he had entered the property on the date of the offense. He also admitted that the tool bag sitting near the damaged floor belonged to him and that he had brought the tool bag with him on the day of the offense. Given the location of Allen's tool bag in relation to the damaged floor and ripped-up floorboards, the trial court could have reasonably concluded from the evidence that Allen was pulling up floorboards at the time of his offense. The trial court was free to discredit Allen's testimony claiming that he had ripped up the floorboards months prior to Troutman purchasing the property.

{¶ 17} Because Troutman testified to purchasing materials to fix the damaged floor and because he provided receipts evidencing that fact, we find that the trial court reasonably concluded that the State had met its burden to establish that Troutman suffered economic loss that was directly and proximately caused by Allen's offense. There was, however, no evidence connecting Allen to the damaged wiring. This is not a concern, though, because the \$901.82 awarded to Troutman does not appear to include the \$95 he spent on wiring, as Troutman's total claimed loss was \$1,050.65.

{¶ 18} Allen, nevertheless, claims that the State did not prove to a reasonable degree of certainty that Troutman sustained an economic loss of \$901.82. Our review of Troutman's receipts for the materials he purchased to fix the floor establishes otherwise. Allen suggests that the materials purchased to repair the floor were needed due to longstanding deterioration and Allen's previous attempts at repairing the floor, not because of any conduct connected to Allen's offense. The parties, however, agreed that \$901.82 was an appropriate amount to award Troutman if the trial court decided to impose restitution. Given the receipts provided by Troutman and the parties' agreement regarding the amount of restitution, it was reasonable for the trial court to order Allen to pay restitution in the agreed-upon amount of \$901.82. Accordingly, the trial court did not abuse its discretion in ordering restitution in that amount.

{¶ 19} Despite it benefiting him slightly, Allen also points out that the trial court's sentencing entry incorrectly states that the amount of restitution owed is \$901.02, as opposed to \$901.82. "[W]here a judgment entry does not accurately reflect the sentence imposed at a sentencing hearing, the judgment entry generally may be corrected by means of a nunc pro tunc entry." *State v. Harris*, 2023-Ohio-648, ¶ 107 (2d Dist.), citing *State v. Pacific*, 2021-Ohio-973, ¶ 55 (2d Dist.). "A nunc pro tunc entry is an appropriate vehicle for

the trial court to correct clerical or typographical errors in a judgment entry.” *Id.*, citing *State v. Donley*, 2017-Ohio-562, ¶ 103 (2d Dist.).

{¶ 20} Allen’s assignment of error is overruled.

Conclusion

{¶ 21} Having overruled Allen’s assignment of error, the judgment of the trial court ordering Allen to pay \$901.82 in restitution to Troutman is affirmed, and the matter is remanded to the trial court solely to amend the sentencing entry nunc pro tunc to reflect the correct amount of restitution awarded to the victim.

.....

LEWIS, P.J., concurs.

HUFFMAN, J., concurs in judgment only.