[Cite as *State v. Smith*, 2026-Ohio-4343.]

IN THE COURT OF APPEALS OF OHIO
THIRD APPELLATE DISTRICT
UNION COUNTY

STATE OF OHIO,

PLAINTIFF-APPELLEE,

v.

JOEY R. SMITH,

DEFENDANT-APPELLANT.

CASE NO. 14-26-06

OPINION AND JUDGMENT ENTRY

Appeal from Union County Common Pleas Court
Trial Court No. 24-CR-0204

Judgment Affirmed

Date of Decision: November 2, 2026

APPEARANCES:

Colin P. Cochran **for Appellant**

Samantha M. Hobbs **for Appellee**

WALDICK, J.

{¶1} Defendant-appellant, Joey R. Smith ("Smith"), brings this appeal from the March 25, 2026, judgment of the Union County Common Pleas Court. For the reasons that follow, we affirm.

Background

{¶2} From April of 2022 to April of 2023, Smith and multiple associates committed numerous theft offenses in Union County and throughout central Ohio. Smith and his associates stole motor vehicles, trailers, golf carts, tractors, ATVs, tools, and other equipment.

{¶3} On September 27, 2024, a 34-count indictment was returned against Smith. The majority of the charges included allegations of Grand Theft of Motor Vehicles and Grand Theft. The most serious charge Smith was facing was Engaging in a Pattern of Corrupt Activity as a second degree felony.

{¶4} On January 30, 2026, Smith entered into a written negotiated plea agreement wherein he agreed to plead guilty to 10 counts of Grand Theft of a Motor Vehicle in violation of R.C. 2913.02(A)(1), all fourth degree felonies, 11 counts of Grand Theft in violation of R.C. 2913.02(A)(1), all fourth degree felonies, one Count of Theft in violation of R.C. 2913.02(A)(1), a fourth degree felony, and two counts of Receiving Stolen Property in violation of R.C. 2913.51(A), both fourth

degree felonies. In exchange for Smith's guilty pleas, the State agreed to dismiss the remaining charges against Smith, including the second-degree felony allegation of Engaging in a Pattern of Corrupt Activity.

{¶5} On March 25, 2026, Smith proceeded to sentencing. The State requested an aggregate prison term of 20 years on the basis that this was the second significant crime spree Smith had been involved in during his life. The State also requested $79,513.46 in restitution. The State argued that Smith was pleading guilty to thefts with an aggregate total of over $412,000, but due to insurance and some other recovery, the State was only requesting $79,513.46 in restitution.

{¶6} After Smith and his attorney made statements in mitigation, the trial court sentenced Smith to serve an aggregate 12-year prison term. He was also ordered to pay the $79,513.46 in restitution. He was informed that his obligation was "joint and several with [his] convicted codefendants."

{¶7} A judgment entry memorializing Smith's sentence was filed that same day, March 25, 2026. It is from this judgment that Smith appeals, asserting the following assignments of error for our review.

Assignment of Error No. 1

> **The trial court erred where it ordered appellant to make restitution in the amount of $79,513.46 where the amount was not supported by the record.**

Assignment of Error No. 2

Appellant received ineffective assistance of counsel where his trial counsel waived a restitution hearing and where trial counsel failed to object to the amount of restitution.

First Assignment of Error

{¶8} In his first assignment of error, Smith argues that the trial court erred by ordering him to pay restitution in the amount of $79,513.46. Specifically, he argues that the amount was not supported by the record.

Standard of Review

{¶9} We review a trial court's decision to impose restitution under an abuse of discretion standard. *State v. Rohrbaugh*, 2010-Ohio-6375, ¶ 14 (3d Dist.); *State v. Messer*, 2023-Ohio-4355, ¶ 7. An abuse of discretion implies that the trial court's decision was unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983). We have held that a trial court abuses its discretion when it awards restitution in an amount contrary to law. *See Messer*, *supra* at ¶ 7-11.

Analysis

{¶10} Prior to the sentencing hearing, the State filed a 42-page "restitution report" detailing the requested restitution in this case. At the sentencing hearing, the

State requested restitution in the following statement to the trial court after making its aggregate prison term recommendation:

> [PROSECUTOR]: The aggregate [restitution] totals here and this is not what was charged. Not what was believed. Just the items in the charges that were pled to. The aggregate total Theft was $412,000. Well, $412,119.58. And, also, there were ten motor vehicles that were stolen which were not included in that aggregate total.
>
> Um, there was harm to the victims here. Economic harm and this is the type of harm where the Court can consider. We have highlighted in the Memo that in Count Ten a business lost $82,754.04 in goods.
>
> In Count 11, another business lost, approximately, $108,000 in goods. These are serious economic harms.
>
> Different victims that we spoke to who did not wish to be present and make statements today but said that because of these crimes they ultimately entered other lines of work because it was just too much to continue on if they had been.
>
> . . .
>
> We, also, did file a Restitution Report. It's 42 pages, so I will not walk through that unless the Court has specific questions but the total restitution that's requested is $79,513.46.

(Mar. 25, 2026, Tr. at 5-6).

{¶11} After making some arguments in mitigation of sentence in response to the State's sentencing recommendation, defense counsel then addressed restitution and the following dialogue occurred:

> [DEFENSE COUNSEL]: As far as restitution goes, though, we haven't had any specifics specifically in the plea when we entered that

there was an amount of restitution that was going to be sought after until the Sentencing Memorandum was submitted.

So, we're asking that the Court – he – I – the Court knows that he is going to be incarcerated up to November of this year, I believe, for the other case that he's in on. Um, . . . I guess we'll have to set it out for a Restitution hearing or something on specifics if we wanted to get specific amounts and times.

THE COURT: I don't think I can sentence him today then.

[DEFENSE COUNSEL]: I – I understand. I'm asking the Court to consider since he's not got a chance to review specifically what they're asking for in restitution since it was not in the initial plea offer that we had and nothing about restitution.

So we're asking the Court to take those things into consideration when – I – I assume the Court has read my Sentencing Memorandum, as well. So, I put in there that he's able to stay with a family member. He would be able to be employed. He does have a lot of good things going on for him.

So, we would ask the Court to take those things into consideration, Your Honor.

THE COURT: Well, we don't need to go any further if you want a Restitution hearing. We just need to set it –

[DEFENSE COUNSEL]: May I have a second?

THE COURT: Yeah. Has he had a chance to – I mean, with the statement that we heard a few minutes ago that it's Four Hundred and some Thousand Dollars that were stolen and we're talking about a Restitution amount of 79,000, it's up to you but –

[DEFENSE COUNSEL]: Your Honor, after speaking to my client, we will move forward today with sentencing.

THE COURT: And accept the restitution amount as stated?

> [DEFENSE COUNSEL]: We understand that there will be a Restitution request and, if the Court issues it and orders it, then he understands that he has the obligation to pay that back.
>
> THE COURT: And you're waiving further hearing on it?
>
> [DEFENSE COUNSEL]: We'll waive that further hearing on that. Yes, we are.
>
> THE COURT: And why do we end up with $79,000 of restitution when we had Four Hundred some Thousand – was there recovery?
>
> [PROSECUTOR]: I think some was recovered. Some was able to be covered by insurance and, frankly, some of the victims, when they were contacted, said this was so long ago. It's just a [sunk] cost to me now. I don't want to go and find the documentation that he – I don't need to worry about it or they just take the contacts back.
>
> So, this is what we had documentation for and everybody was contacted, was given a timeline to submit documentation and this is what we received.

(*Id*. at 7-10).

{¶12} When the trial court sentenced Smith, the trial court stated as follows regarding restitution:

> It's further ordered that you make restitution in the total amount of $79,513.46 through the Union County Clerk of Courts to the entities set forth in Exhibit A attached hereto. Your obligation is joint and several with your convicted codefendants.

(*Id*. at 20).[1]

[1] Similar language was included in the final judgment entry of sentence.

{¶13} On appeal, Smith argues that the trial court erred by ordering restitution because Smith's co-defendants were also ordered to pay restitution to the victims.[2] He argues that, "The Report does not clearly delineate which co-defendant is responsible for which portion of the restitution[.]" (Appt.'s Br. at 8).

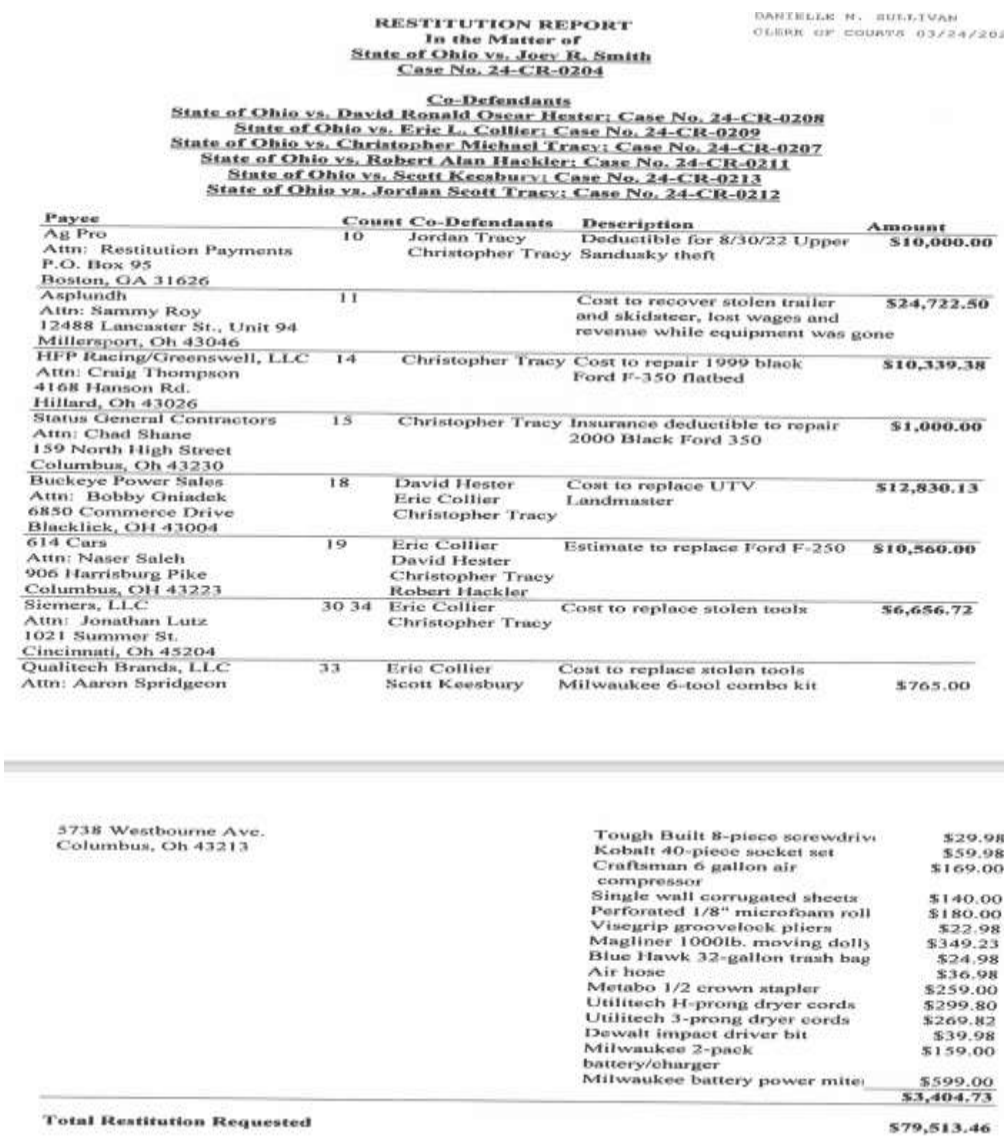
{¶14} What Smith plainly ignores is that the trial court ordered "joint and several" liability. We have previously held that R.C. 2929.18 does not require apportionment for restitution. *State v. Kline*, 2012-Ohio-4345, ¶ 12 (3d Dist.). Moreover, it has been held that, "it would be a sound and reasonable practice for a trial court to designate the liability for restitution among co-defendants as joint and several." *State v. Becraft*, 2015-Ohio-3911, ¶ 30 (2d Dist.). For this reason alone we find that the trial court did not abuse its discretion.

{¶15} Furthermore, we emphasize that R.C. 2929.18(A)(1) permits an "offender to file a motion for modification of the payment terms of any restitution ordered. If the movant establishes that the victim was compensated by any other source, the amount of the restitution should be reduced." *Id*. This prevents a victim from receiving a "windfall" in excess of his or her loss. *State v. Moore*, 2022-Ohio-409, ¶ 29 (2d Dist.).

{¶16} Finally, Smith argues that the amount of restitution was not adequately supported by documentation. We disagree. The "restitution report" contained the

[2] We do not have the records related to the other co-defendants.

following table summarizing the restitution amounts, the victims, and the reasons for restitution:



DANIELLE N. SULLIVAN
CLERK OF COURTS 03/24/20

RESTITUTION REPORT
In the Matter of
State of Ohio vs. Joey R. Smith
Case No. 24-CR-0204

Co-Defendants
State of Ohio vs. David Ronald Oscar Hester; Case No. 24-CR-0208
State of Ohio vs. Eric L. Collier; Case No. 24-CR-0209
State of Ohio vs. Christopher Michael Tracy; Case No. 24-CR-0207
State of Ohio vs. Robert Alan Hackler; Case No. 24-CR-0211
State of Ohio vs. Scott Keesbury; Case No. 24-CR-0213
State of Ohio vs. Jordan Scott Tracy; Case No. 24-CR-0212

Payee	Count	Co-Defendants	Description	Amount
Ag Pro Attn: Restitution Payments P.O. Box 95 Boston, GA 31626	10	Jordan Tracy Christopher Tracy	Deductible for 8/30/22 Upper Sandusky theft	$10,000.00
Asplundh Attn: Sammy Roy 12488 Lancaster St., Unit 94 Millersport, Oh 43046	11		Cost to recover stolen trailer and skidsteer, lost wages and revenue while equipment was gone	$24,722.50
HFP Racing/Greenswell, LLC Attn: Craig Thompson 4168 Hanson Rd. Hillard, Oh 43026	14	Christopher Tracy	Cost to repair 1999 black Ford F-350 flatbed	$10,339.38
Status General Contractors Attn: Chad Shane 159 North High Street Columbus, Oh 43230	15	Christopher Tracy	Insurance deductible to repair 2000 Black Ford 350	$1,000.00
Buckeye Power Sales Attn: Bobby Gniadek 6850 Commerce Drive Blacklick, OH 43004	18	David Hester Eric Collier Christopher Tracy	Cost to replace UTV Landmaster	$12,830.13
614 Cars Attn: Naser Saleh 906 Harrisburg Pike Columbus, OH 43223	19	Eric Collier David Hester Christopher Tracy Robert Hackler	Estimate to replace Ford F-250	$10,560.00
Siemers, LLC Attn: Jonathan Lutz 1021 Summer St. Cincinnati, Oh 45204	30 34	Eric Collier Christopher Tracy	Cost to replace stolen tools	$6,656.72
Qualitech Brands, LLC Attn: Aaron Spridgeon	33	Eric Collier Scott Keesbury	Cost to replace stolen tools Milwaukee 6-tool combo kit	$765.00
5738 Westbourne Ave. Columbus, Oh 43213			Tough Built 8-piece screwdriv Kobalt 40-piece socket set Craftsman 6 gallon air compressor Single wall corrugated sheets Perforated 1/8" microfoam roll Visegrip grooveloek pliers Magliner 1000lb. moving dolly Blue Hawk 32-gallon trash bag Air hose Metabo 1/2 crown stapler Utilitech H-prong dryer cords Utilitech 3-prong dryer cords Dewalt impact driver bit Milwaukee 2-pack battery/charger Milwaukee battery power mite	$29.98 $59.98 $169.00 $140.00 $180.00 $22.98 $349.23 $24.98 $36.98 $259.00 $299.80 $269.82 $39.98 $159.00 $599.00 $3,404.73
Total Restitution Requested				$79,513.46

{¶17} In addition to the table above, the "restitution report" contained emails with the victims detailing their provable economic losses. Given that Smith has produced no contrary evidence, and no evidence to contradict the amounts in the

"restitution report," we do not find that the trial court abused its discretion by ordering restitution, jointly and severally, in the amount of $79,513.46. Therefore, Smith's first assignment of error is overruled.

Second Assignment of Error

{¶18} In his second assignment of error, Smith argues that his trial counsel was ineffective for failing to object to the amount of restitution in this case.

Standard of Review

{¶19} In order to prevail on an ineffective-assistance-of-counsel claim, a defendant must prove that counsel's performance was deficient and that the defendant was prejudiced by counsel's deficient performance. *State v. Bradley* 42 Ohio St.3d 136, 141-142 (1989); *Strickland v. Washington*, 466 U.S. 668 (1984). Thus, the defendant must demonstrate that counsel's performance fell below an objective standard of reasonableness and that there exists a reasonable probability that, but for counsel's error, the result of the proceeding would have been different. *Bradley* at paragraphs two and three of the syllabus. Failure to establish either showing defeats a claim of ineffective assistance of counsel. *Id*. at 143.

Analysis

{¶20} Smith argues that his attorney was ineffective for failing to request a restitution hearing in this case. He argues that the State represented that the

aggregate total theft amount exceeded $400,000, but the State was seeking $79,513.46 in restitution. He argues that this discrepancy needed further explanation. In addition, he argues that the codefendants had overlapping restitution obligations and this should have been explored.

{¶21} Initially, we emphasize that defense counsel in this case, *after specifically conferring with Smith during the sentencing hearing*, expressly waived further hearing on restitution. Notwithstanding this point, Smith is utterly unable to establish on appeal that he was prejudiced by any lack of a restitution hearing. The only evidence our record contains supports the trial court's award of restitution. Even if defense counsel was somehow deficient for waiving the restitution hearing after direct consultation with his client, we can find no prejudice here. Therefore, Smith's second assignment of error is overruled.

Conclusion

{¶22} Having found no error prejudicial to Smith in the particulars assigned and argued, his assignments of error are overruled and the judgment of the Union County Common Pleas Court is affirmed.

Judgment Affirmed

ZIMMERMAN, P.J. and WILLAMOWSKI, J., concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this Court, the assignments of error are overruled and it is the judgment and order of this Court that the judgment of the trial court is affirmed with costs assessed to Appellant for which judgment is hereby rendered. The cause is hereby remanded to the trial court for execution of the judgment for costs.

It is further ordered that the Clerk of this Court certify a copy of this Court's judgment entry and opinion to the trial court as the mandate prescribed by App.R. 27; and serve a copy of this Court's judgment entry and opinion on each party to the proceedings and note the date of service in the docket. See App.R. 30.

Juergen A. Waldick, Judge

William R. Zimmerman, Judge

John R. Willamowski, Judge

DATED:
/jlm