

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Oconee County
The Honorable J. Cordell Maddox, Circuit Court Judge
The Honorable R. Lawton McIntosh, Circuit Court Judge
Appellate Case No. 2017-002606

The State,

v.

Matthew Jacob (Jake) Eder,

Respondent,

Appellant.

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SC Court of Appeals

FINAL BRIEF OF RESPONDENT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

STATEMENT OF ISSUE ON APPEAL..... 1

STATEMENT OF THE CASE..... 2

STATEMENT OF FACTS 3

STANDARD OF REVIEW 5

ARGUMENT..... 6

 The circuit court acted within its discretion in ordering Appellant to
 pay restitution in the full amount of the Victim’s undisputed medical
 xpenses related to Appellant’s assault on the Victim. 6

CONCLUSION..... 8

TABLE OF AUTHORITIES

Cases

<u>In re M.B.H.</u> , 387 S.C. 323, 692 S.E.2d 541, (2010).....	5
<u>State v. Cox</u> , 326 S.C. 440, 484 S.E.2d 108 (Ct. App. 1997).....	5, 6, 7
<u>State v. Gullede</u> , 326 S.C. 220, 487 S.E.2d 590 (1997).....	6
<u>State v. Morgan</u> , 417 S.C. 338, 790 S.E.2d 27 (Ct. App. 2016).....	5, 6, 7
<u>State v. Wilson</u> , 274 S.C. 352, 264 S.E.2d 414 (1980).....	7

Statutes

S.C Code §17-25-322 (2014).....	6
Ann. §17-25-322(B) (2014).....	7

STATEMENT OF ISSUE ON APPEAL

The circuit court acted within its discretion in ordering Appellant to pay restitution in the full amount of the Victim's undisputed medical expenses related to Appellant's assault on the Victim.

STATEMENT OF THE CASE

The State concurs with Appellant's procedural Statement of the Case.

STATEMENT OF FACTS

The Oconee County Grand Jury indicted Appellant Matthew Jacob Eder on one count of attempted murder and one count of domestic violence second degree. The domestic violence charge arose from an altercation on August 6, 2015, between Appellant and his wife Brianna (Wife). The attempted murder charge arose from an altercation on September 19, 2015, between Appellant and Wife's friend David Seth Pierce (Victim), after Victim responded to a telephone call from Wife, during which Victim heard an on-going physical altercation between Appellant and Wife.

On October 30, 2017, Appellant pled guilty before the Honorable J. Cordell Maddox, Circuit Court Judge, to the domestic violence second degree charge, and to assault and battery in the second degree on the attempted murder charge. The circuit court sentenced Appellant to three years incarceration, suspended to two years and five years probation on each count, with the sentences to run concurrent. The restitution to Victim was held in abeyance pending a hearing. (October 30, 2017 Guilty Plea Hearing Transcript [10/30 Tr.], pp. 1-17, Sentencing Sheet dated October 30, 2017; Record on Appeal [R.], pp. 1-17, 53)

The matter was called for a restitution hearing on December 11, 2017, before the Honorable R. Lawton McIntosh, Circuit Court Judge. (December 11, 2017 Restitution Hearing Transcript [12/11 Tr.], pp. 1-7; R., pp. 18-24). The State presented a Spreadsheet and medical bills reflecting Victim's medical expenses in the amount of \$3,069.80. Appellant stipulated to the amount of Victim's medical expenses. (State's Exhibit 1 [Spreadsheet], State's Exhibits 2-8 [Medical Bills]; R., pp. 25, 26-33).

Appellant presented no evidence at the hearing, but argued he should only be responsible for one-half of Victim's expenses because Victim came to Appellant's home and initiated the altercation. The court indicated Appellant should be responsible for the entire amount in light of

his guilty plea to assault and battery second degree, but reserved judgment if Appellant wanted to present any evidence. When asked by the court, Appellant admitted he used a knife in the altercation and stabbed Victim in the torso. The court again offered to hear any testimony Appellant wanted to submit, and Appellant indicated he did not want to submit any evidence. (12/11 Tr., pp. 1-6, State's Exhibits 1-8; R., pp. 18-23).

The court ordered Appellant to pay restitution in the full amount of Victim's medical expenses of \$3,069.80. (Sentencing Sheet dated October 30, 2017 with restitution; R., pp. 53). This appeal followed.¹

¹Appellant does not challenge his guilty plea, and only appeals from the restitution order.

STANDARD OF REVIEW

The trial judge has broad discretion in determining the manner, method, and amount of restitution. State v. Cox, 326 S.C. 440, 484 S.E.2d 108, 109 (Ct. App. 1997). “A sentence will not be overturned absent an abuse of discretion when the ruling is based on an error of law or a factual conclusion without evidentiary support.” In re M.B.H., 387 S.C. 323, 692 S.E.2d 541, 542 (2010); State v. Morgan, 417 S.C. 338, 790 S.E.2d 27, 29 (Ct. App. 2016) (same).

ARGUMENT

The circuit court acted within its discretion in ordering Appellant to pay restitution in the full amount of the Victim's undisputed medical expenses related to Appellant's assault on the victim.

Appellant contends the circuit court erred in ordering Appellant to pay the full amount of Victim's medical expenses as restitution because the court failed to consider all the factors set forth in §17-25-322 (2014). Based on the evidence presented at the hearing, however, the circuit court acted well within its discretion in ordering Appellant to pay restitution in the full amount of the Victim's medical expenses.

"The restitution hearing is part of the sentencing proceeding." State v. Gulledge, 326 S.C. 220, 487 S.E.2d 590, 594 (1997); Morgan, 790 S.E.2d at 29 ("[A] restitution order is in the nature of a sentence, and the [circuit] court is vested with wide discretion in determining the appropriate sentence for a convicted defendant."). The purpose of restitution is to assure the victim is fully compensated. The trial judge has broad discretion in determining the manner, method, and amount of restitution. Cox, 484 SE.2d at 109; South Carolina Code Ann. § 17-25-322 (2014).

When considering restitution, the judge may take a number of things into account, including

- (1) the financial resources of the defendant and the victim and the burden that the manner or method of restitution will impose upon the victim or the defendant;
- (2) the ability of the defendant to pay restitution on an installment basis or on other conditions to be fixed by the court;
- (3) the anticipated rehabilitative effect on the defendant regarding the manner of restitution or the method of payment;
- (4) any burden or hardship upon the victim as a direct or indirect result of the defendant's criminal acts; and

(5) the mental, physical, and financial well-being of the victim.

Ann. §17-25-322(B) (2014); Cox, 484 S.E.2d at 109. South Carolina's restitution statutes "permit, but do not require, a sentencing judge to consider [these] factors." Morgan, 790 S.E.2d at 30 (emphasis added). The trial court imposition of a restitution order must have an evidentiary basis. State v. Wilson, 274 S.C. 352, 264 S.E.2d 414, 416 (1980).

In this case, the **only** evidence presented at the restitution hearing established the undisputed amount of Victim's medical expenses associated with Appellant's assault on him. When specifically offered an opportunity to present evidence, Appellant merely stated he should not have to pay the full amount of Victim's expenses because he only acted in response to Victim's unprovoked attack on him, which led to Victim's injuries, but offered no evidence. (12/11 Tr., pp. 2-6; R., pp. 19-23).

Based on the hearing evidence, the circuit court acted well within its discretion in ordering Appellant to pay restitution in the full amount of Victim's medical expenses. Appellant's liability was established by his guilty plea to assault and battery second degree. When offered the opportunity to present evidence at the hearing, Appellant presented no evidence, or even argument, indicating his was financially unable to pay the full amount, but merely made essentially an equity argument regarding Victim's conduct. The applicable law permits, but not require, the sentencing court to consider the factors listed in the statute. In light of the evidence presented, the circuit court determined Appellant was responsible for the full amount of Victim's medical expenses, and the record amply supports the circuit court's ruling.

CONCLUSION

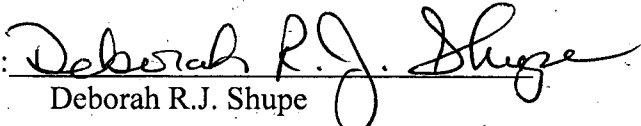
Based on the foregoing, the State respectfully submits the circuit court's restitution order should be affirmed.

Respectfully submitted,

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CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and the April 14, 2014, order from the South Carolina Supreme Court entitled, "Revised Order of Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

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