

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

United States v. Qurashi

634 F.3d 699 (2d Cir. 2011) · No. 10-348-cr · Decided March 8, 2011

SUMMARY

The United States Court of Appeals for the Second Circuit upheld a criminal restitution order requiring Imran Qurashi to pay prejudgment interest to insurers defrauded through fraudulent life insurance claims. The court held that the Mandatory Victims Restitution Act permits prejudgment interest to ensure full compensation and rejected Qurashi's claim that the delayed restitution determination prejudiced him. The court remanded for the limited purpose of correcting the statement of reasons to reflect the parties' sentencing stipulation.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	John M. Walker, Jr.; Newman; Pooler
JURISDICTION	Federal
DECIDED	March 8, 2011
DOCKET	10-348-cr
DISPOSITION	other
PROCEDURAL POSTURE	Qurashi appealed from a criminal restitution order entered after his guilty plea and sentencing, challenging the inclusion of prejudgment interest and the timeliness of the restitution determination. He also sought a limited remand to correct the district court's statement of reasons.
STANDARD OF REVIEW	Restitution orders are reviewed deferentially for abuse of discretion; an abuse occurs when the ruling rests on an error of law, a clearly erroneous factual finding, or otherwise falls outside the range of permissible decisions.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Imran Qurashi v. United States of America

TOPICS

[restitution criminal](#)[insurance](#)[statutory interpretation](#)[appellate procedure](#)[standard of review](#)

PRACTICE AREAS

criminal restitution

criminal procedure

insurance fraud

appellate procedure

statutory interpretation

QUESTIONS PRESENTED

1. Whether the Mandatory Victims Restitution Act permits a criminal restitution order to include prejudgment interest on funds obtained through insurance fraud.
2. Whether the district court lost authority to determine restitution because it did not conduct the restitution hearing or enter the restitution order within the statutory 90-day period.
3. Whether the case should be remanded to correct a statement of reasons that inaccurately characterized the sentence as above the applicable Guidelines range.

HOLDINGS

1. The MVRA permits a sentencing court to award prejudgment interest as part of criminal restitution when necessary to compensate victims fully for losses, including the loss of the ability to put wrongfully obtained funds to productive use.
2. The district court retained authority to order restitution because it made clear at sentencing that restitution would be ordered, leaving only the amount unresolved; Qurashi showed no prejudice from the delay.
3. A limited remand was appropriate to permit the district court to amend the statement of reasons so that it correctly reflected or otherwise accounted for the parties' stipulated Guidelines offense level and sentencing range.

KEY QUOTATIONS

"We hold that the MVRA allows a sentencing court to award prejudgment interest in a criminal restitution order to ensure compensation "in the full amount of each victim's losses." (704)

"Here, the prejudgment interest award is not meant to guarantee the benefit of any bargain, but is designed to ensure that the insurer victims are fully compensated for their actual loss, which includes the loss of the ability to put their money to productive use." (705)

FACTUAL BACKGROUND

Qurashi and his brother obtained life-insurance policies on the brother's life and falsely reported that the brother had died in Pakistan. Two insurers paid Qurashi more than \$6 million in 1996. After the brother assumed a fictitious identity, Qurashi purchased additional policies and made further fraudulent claims, which prompted investigations and led to his prosecution. The restitution order required repayment of the insurance proceeds plus four percent prejudgment interest.

PROCEDURAL HISTORY

Qurashi pleaded guilty to conspiracy to commit mail fraud and eight counts of mail fraud arising from fraudulent life-insurance claims. The district court sentenced him in October 2008 and later entered a restitution order

including prejudgment interest after referring the matter to a magistrate judge. The Second Circuit affirmed the restitution judgment, rejected the untimeliness challenge, and remanded solely to permit correction of the statement of reasons supporting the sentence.

DISPOSITION

other

REMAND INSTRUCTIONS

Remand for the limited purpose of allowing the district court to amend the statement of reasons to correctly reflect or otherwise account for the parties' stipulation to offense level 30 and a Guidelines range of 97 to 121 months. The restitution judgment was affirmed.

CASES CITED

- United States v. Boccagna, 450 F.3d 107 (2d Cir. 2006)
- United States v. Gonzalez, 420 F.3d 111 (2d Cir. 2005)
- United States v. Scott, 321 Fed. Appx. 71 (2d Cir. 2009)
- United States v. Simmonds, 235 F.3d 826 (3d Cir. 2000)
- United States v. Nucci, 364 F.3d 419 (2d Cir. 2004)
- Rodgers v. United States, 332 U.S. 371 (1947)
- City of Milwaukee v. Cement Division, National Gypsum Co., 515 U.S. 189 (1995)
- United States v. Gordon, 393 F.3d 1044 (9th Cir. 2005)
- United States v. Shepard, 269 F.3d 884 (7th Cir. 2001)
- Government of the Virgin Islands v. Davis, 43 F.3d 41 (3d Cir. 1994)
- United States v. Hoyle, 33 F.3d 415 (4th Cir. 1994)
- United States v. Patty, 992 F.2d 1045 (10th Cir. 1993)
- United States v. Rochester, 898 F.2d 971 (5th Cir. 1990)
- Bausch & Lomb v. Bressler, 977 F.2d 720 (2d Cir. 1992)
- Dolan v. United States, 560 U.S. 605, 130 S. Ct. 2533, 177 L. Ed. 2d 108 (2010)
- United States v. Stuckey, 317 Fed. Appx. 48 (2d Cir. 2009)