

SUPREME COURT OF NEW HAMPSHIRE

State v. Shannon, 155 N.H. 135

920 A.2d 1163 (2007) · No. 2006-056 · Decided April 4, 2007

SUMMARY

The Supreme Court of New Hampshire reviewed a restitution order imposed after Michael Shannon pleaded guilty to receiving stolen property. The court held that, once the State established the defendant's responsibility for the victim's loss, the defendant bore the burden of proving that a Massachusetts restitution order had already fully compensated the victim. The court modified the restitution amount from \$8,475 to \$8,445 and affirmed the order as modified.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Galway, J.; Broderick, C.J.; Dalianis, J.; Duggan, J.; Hicks, J.
JURISDICTION	New Hampshire
DECIDED	April 4, 2007
DOCKET	2006-056
DISPOSITION	other
PROCEDURAL POSTURE	The defendant appealed a restitution order imposed by the Rockingham County Superior Court after he pleaded guilty to receiving stolen property.
STANDARD OF REVIEW	Factual findings are accepted unless unsupported by the record or clearly erroneous; legal conclusions and statutory interpretation are reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Michael Shannon v. State of New Hampshire

TOPICS

- restitution criminal
- statutory interpretation
- criminal procedure
- standard of review
- appellate procedure

PRACTICE AREAS

- criminal law
- criminal procedure
- restitution

QUESTIONS PRESENTED

1. Whether the defendant or the State bore the burden of proving whether the Massachusetts restitution order had already fully compensated the victim for the same injury.
2. Whether the trial court's finding that the defendant had not established prior full compensation was unsupported by the evidence or clearly erroneous.
3. Whether the restitution amount should be corrected from \$8,475 to the undisputed amount of \$8,445.

HOLDINGS

1. When the State proves that the defendant is responsible for the victim's loss, RSA 651:61-a, I creates a presumption that the defendant will compensate the victim. The defendant bears the burden of rebutting that presumption by proving that prior restitution fully compensated the victim for the same injury.
2. The trial court's finding that Shannon failed to prove that the Massachusetts restitution order fully compensated the victim was supported by the record and was not clearly erroneous.
3. The restitution order had to be modified from \$8,475 to \$8,445, the amount established for the unrecovered New Hampshire jewelry.

KEY QUOTATIONS

“A party wishing to rebut this presumption would, logically, bear the burden of proof.” (1166)

“The defendant bore the burden to rebut that presumption.” (1167)

“Modified in part; affirmed as modified.” (1168)

FACTUAL BACKGROUND

Michael Shannon stole jewelry from Diane Burke, sold most of it in Massachusetts, and sold additional jewelry in New Hampshire. Massachusetts ordered him to pay \$39,400 in restitution, while the New Hampshire prosecution resulted in a separate restitution proceeding concerning jewelry sold to a New Hampshire pawnshop. The New Hampshire trial court found that Shannon had not shown that the Massachusetts order covered the New Hampshire losses and ordered restitution, ultimately determined on appeal to be \$8,445.

PROCEDURAL HISTORY

Shannon pleaded guilty in New Hampshire to receiving stolen property after having been convicted in Massachusetts and ordered to pay restitution there. The New Hampshire Superior Court initially ordered restitution to the victim and a New Hampshire pawnshop, then held a further hearing concerning the amount. It ordered Shannon to pay \$8,475 to the victim, concluding that he failed to prove the Massachusetts restitution order fully compensated the victim. The Supreme Court of New Hampshire held that Shannon bore the burden of proving prior full compensation, upheld the factual findings, corrected the restitution amount to \$8,445, and affirmed the order as modified.

DISPOSITION

other

CASES CITED

- State v. Wiggin, 151 N.H. 305, 307, 855 A.2d 1250 (2004)
- Debonis v. Warden, N.H. State Prison, 153 N.H. 603, 605, 903 A.2d 993 (2006)
- State v. Gubitosi, 152 N.H. 673, 682, 886 A.2d 1029 (2005)
- State v. Burr, 147 N.H. 102, 105, 782 A.2d 914 (2001)
- State v. Eno, 143 N.H. 465, 469-71, 727 A.2d 981 (1999)
- United States v. Karam, 201 F.3d 320, 326-27 (4th Cir. 2000)
- United States v. Parsons, 141 F.3d 386, 393 (1st Cir. 1998)
- United States v. Sheinbaum, 136 F.3d 443, 449 (5th Cir. 1998)

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