

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

United States v. Su Mun

No. No. 20-10031, United States Court of Appeals for the Fifth Circuit (December 17, 2020)

SUMMARY

The Fifth Circuit held that a defendant who pleaded guilty to maintaining a drug-involved premises could be ordered under the Mandatory Victims Restitution Act (MVRA) to pay restitution for funeral and cremation expenses to the families of victims who died at the hotel he owned and operated. The court rejected the defendant's argument that the MVRA precludes such restitution for property offenses, reasoning that the statute authorizes funeral and related costs when an offense results in bodily injury causing death, regardless of the offense type. The court also found sufficient evidence that the defendant's operation of the "addict's paradise" hotel was both the but-for and proximate cause of the victims' deaths due to the foreseeable risks of overdose and violence. This unpublished per curiam decision affirms the restitution award and clarifies that property offenses under 21 U.S.C. § 856(a)(2) can support restitution for death-related expenses under 18 U.S.C. § 3663A(b)(3).

CASE DETAILS

|                       |                                                                                                        |
|-----------------------|--------------------------------------------------------------------------------------------------------|
| COURT                 | United States Court of Appeals for the Fifth Circuit                                                   |
| WRITING FOR THE COURT | Owen; King; Engelhardt                                                                                 |
| JURISDICTION          | Federal                                                                                                |
| DECIDED               | December 17, 2020                                                                                      |
| DOCKET                | No. 20-10031                                                                                           |
| DISPOSITION           | affirmed                                                                                               |
| PROCEDURAL POSTURE    | Appeal from the United States District Court for the Northern District of Texas, USDC No. 3:19-CR-86-3 |
| STANDARD OF REVIEW    | Plain error for unobjected sentencing errors; de novo for illegal sentence.                            |
| PRECEDENTIAL VALUE    | Unpublished                                                                                            |
| PARTIES               | Su Y. Amos Mun v. United States of America                                                             |

TOPICS

- criminal procedure
- sentencing
- remedies
- appellate procedure
- standard of review

## QUESTIONS PRESENTED

1. Whether the Mandatory Victims Restitution Act (MVRA) precludes restitution for funeral and cremation expenses for a conviction of maintaining a drug-involved premises.
2. Whether the factual findings establish that Mun's offense directly and proximately caused the victims' deaths.

## HOLDINGS

1. The MVRA authorizes restitution for funeral expenses because the statute focuses on the type of loss (bodily injury resulting in death) rather than the type of offense, and a property offense can result in such loss.
2. Mun's offense was a but-for and proximate cause of the deaths because but for his maintenance of the hotel, the deaths would not have occurred when they did, and the deaths were reasonably foreseeable consequences of his conduct.

## KEY QUOTATIONS

*“The Hotel was, at times, referred to as 'an addict's paradise' and a 'hotel of horrors.’” (at 2)*

*“The MVRA describes the available restitution based on the type of damage or loss suffered by the victim rather than the type of offense.” (at 3)*

*“But-for causation simply means that 'the harm would not have occurred in the absence of . . . [Mun's] conduct.’” (at 4)*

*“A person is 'proximately harmed' when the harm is 'a reasonably foreseeable consequence of the criminal conduct.’” (at 5)*

*“Mun maintained 'a hotel of horrors' that was the scene of numerous drug deals, repeated overdoses, several deaths, and various instances of torture.” (at 5-6)*

## FACTUAL BACKGROUND

Mun owned and managed the HanGil Hotel Town, known as 'an addict's paradise' and a 'hotel of horrors.' He allowed drug dealers to operate openly in exchange for inflated room rates. The hotel was the scene of violence, torture, and at least two deaths: J.B. died of a heroin overdose, and L.R. died of either a heroin overdose or a violent encounter. Mun monitored security footage, deleted footage, gave advance notice of compliance checks, and paid a cleanup crew to remove bodies. He pleaded guilty to maintaining a drug-involved premises.

## PROCEDURAL HISTORY

Mun pleaded guilty to maintaining a drug-involved premises. The district court sentenced him to 240 months' imprisonment and ordered restitution of \$11,400 for funeral and cremation expenses to the families of two deceased individuals. Mun appealed the restitution order.

## DISPOSITION

affirmed

#### CASES CITED

- United States v. Del Barrio, 427 F.3d 280, 282 (5th Cir. 2005)
- United States v. Marunda, 731 F. App'x 281, 285 (5th Cir. 2018)
- United States v. Story, 439 F.3d 226, 230 (5th Cir. 2006)
- United States v. Shifflett, 773 F. App'x 214, 215 (5th Cir. 2019)
- United States v. Onyiego, 286 F.3d 249, 251-52, 56 (5th Cir. 2002)
- United States v. Sharma, 703 F.3d 318, 323 (5th Cir. 2012)
- United States v. Salinas, 918 F.3d 463, 466 (5th Cir. 2019)
- United States v. Mathew, 916 F.3d 510, 519 (5th Cir. 2019)