

OHIO COURT OF APPEALS, FIFTH APPELLATE DISTRICT

State v. Simerly

2026-Ohio-1959 · No. CT2025-0123 · Decided May 26, 2026

SUMMARY

The Ohio Fifth District Court of Appeals reviewed Jessica Simerly’s convictions and sentence following guilty pleas to multiple offenses, including attempted engaging in a pattern of corrupt activity, breaking and entering, theft, and receiving stolen property. The court sustained her challenge to the allied-offense determination based on the State’s concession, reversed in part, and remanded for resentencing. The court affirmed the \$23,800 restitution order, finding it supported by the victim’s testimony and the trial court’s credibility determination.

CASE DETAILS

COURT	Ohio Court of Appeals, Fifth Appellate District
WRITING FOR THE COURT	William B. Hoffman; Andrew J. King; Robert G. Montgomery
JURISDICTION	Ohio Court of Appeals, Fifth Appellate District, Muskingum County
DECIDED	May 26, 2026
DOCKET	CT2025-0123
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Jessica Simerly appealed from her convictions, sentence, and restitution order entered after guilty pleas in the Muskingum County Court of Common Pleas.
STANDARD OF REVIEW	The restitution order was reviewed for abuse of discretion. The allied-offenses assignment was sustained based on the State’s concession.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Jessica Simerly v. State of Ohio

TOPICS

- restitution criminal
- sentencing
- criminal procedure
- appellate procedure

PRACTICE AREAS

- criminal law
- criminal procedure
- sentencing
- restitution

QUESTIONS PRESENTED

1. Whether Simerly's offenses were allied offenses of similar import requiring merger for sentencing.
2. Whether the trial court abused its discretion by ordering \$23,800 in restitution when the amount was based primarily on the victim's testimony.

HOLDINGS

1. The offenses of which Simerly was convicted and sentenced were allied offenses and therefore should have been merged; the trial court's judgment was reversed in that respect.
2. The trial court did not abuse its discretion by ordering Simerly to pay \$23,800 in restitution jointly and severally with her codefendants.

KEY QUOTATIONS

"A trial court has discretion to order restitution in an appropriate case and may base the amount it orders on a recommendation of the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, but the amount ordered cannot be greater than the amount of economic loss suffered as a direct and proximate result of the commission of the offense." (§ 10)

FACTUAL BACKGROUND

Police investigations and trail-camera photographs connected Simerly and two codefendants to multiple thefts and break-ins at an elderly victim's property. Items taken included tools, a trailer, a truck, and other property. At a restitution hearing, the victim testified that the confirmed value of the stolen property was \$23,800, explaining that he excluded items he could not confirm were missing and used conservative valuations.

PROCEDURAL HISTORY

Simerly was indicted with two codefendants on multiple theft- and property-related offenses. The State amended the engaging-in-a-pattern-of-corrupt-activity charge to attempted engaging in a pattern of corrupt activity, and Simerly pleaded guilty to all charges. The trial court imposed an aggregate forty-eight-month prison term and ordered her to pay \$23,800 in restitution jointly and severally with her codefendants. The court of appeals sustained her allied-offenses assignment, upheld the restitution amount, and remanded for resentencing.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the Muskingum County Court of Common Pleas for resentencing according to law, consistent with the opinion, including merger of the allied offenses. The \$23,800 restitution award is affirmed.

CASES CITED

- State v. Lalain, 2013-Ohio-3093, ¶ 27
- State v. Moore, 2022-Ohio-4261, ¶ 12 (5th Dist.)
- State v. Choate, 2015-Ohio-4972, ¶ 41 (9th Dist.)

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