

SUPREME COURT OF SOUTH DAKOTA

State of South Dakota v. Jerrold Ray Martin

State v. Martin, 2006 SD 104 (2006) · No. No. 23942 · Decided November 21, 2006

SUMMARY

The Supreme Court of South Dakota considers whether a restitution order following a guilty plea for intentional damage to property properly calculated the value of destroyed personal property. The court holds that the civil measure of damages applies, and that replacement cost may be considered for property with peculiar value but cannot be used without considering depreciation or other relevant factors. The restitution order is reversed and remanded for findings of fact, conclusions of law, and reconsideration of the amount.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Per Curiam; Chief Justice Gilbertson; Justice Sabers; Justice Konenkamp; Justice Zinter; Justice Meierhenry
JURISDICTION	South Dakota
DECIDED	November 21, 2006
DOCKET	No. 23942
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Martin appealed a restitution order entered after his guilty plea to intentional damage to property.
STANDARD OF REVIEW	A trial court has broad discretion in imposing restitution, but questions of law are reviewed de novo without deference to the trial court's conclusions.
PRECEDENTIAL VALUE	published opinion; precedential South Dakota Supreme Court decision
PARTIES	Jerrold Ray Martin v. State of South Dakota

TOPICS

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

PRACTICE AREAS

- criminal law
- criminal procedure
- restitution
- property damages
- appellate procedure

QUESTIONS PRESENTED

1. What measure of damages governs restitution for destroyed personal property under South Dakota's restitution statutes?
2. May a trial court use replacement value without considering depreciation, fair market value, or other relevant valuation factors?
3. Did the trial court err by rejecting the civil measure of damages incorporated into the restitution statutes and by failing to enter findings of fact and conclusions of law?

HOLDINGS

1. The civil measure of damages applies to criminal restitution because SDCL 23A-28-2(3) defines pecuniary damages by reference to damages recoverable in a civil action arising from the same facts or event.
2. Replacement cost may be an appropriate measure of restitution for personal property with peculiar value to the owner or lacking a readily ascertainable secondhand market, but replacement cost may not be used without considering depreciation or other relevant valuation factors.
3. A trial court must enter findings of fact and conclusions of law supporting a restitution order, particularly when the valuation evidence is disputed.

KEY QUOTATIONS

“Therefore, the civil measure of damages applies.” (¶ 6)

“However, even considering “peculiar value” under SDCL 21-1-8 and the foregoing authorities, replacement cost may be adopted, but not without any consideration of depreciation (or perhaps appreciation in the case of a second-hand item that has become a valuable antique).” (¶ 13)

FACTUAL BACKGROUND

On December 24, 2004, Jerrold Ray Martin illegally entered Michael and Paula Kear's home in Buffalo Gap, South Dakota, and destroyed a large amount of personal property. After Martin pleaded guilty to intentional damage to property, the parties agreed that some damaged items were worth approximately \$470, but disputed the value of other items. Martin presented auction estimates of \$1,680 to \$3,975 for the disputed property, while the Kears presented replacement-value evidence ranging from \$8,070 to \$8,250. The trial court ordered \$8,552.58 in restitution without entering written findings of fact or conclusions of law.

PROCEDURAL HISTORY

Martin pleaded guilty after illegally entering the Kears' home and destroying personal property. Following a restitution hearing, the trial court ordered him to pay \$8,552.58, apparently based primarily on replacement value without considering depreciation. Martin appealed, and the South Dakota Supreme Court reversed and remanded.

DISPOSITION

REMAND INSTRUCTIONS

Reconsider the restitution amount under the applicable civil measure of damages and enter findings of fact and conclusions of law. The court may consider replacement cost, but may not do so without considering depreciation or other relevant valuation factors, including possible appreciation where appropriate.

CASES CITED

- State v. Ruttman, 1999 SD 112, ¶ 3, 598 N.W.2d 910, 911
- State v. Tuttle, 460 N.W.2d 157, 159-60 (S.D. 1990)
- State v. Thayer, 2006 SD 40, ¶ 16, 713 N.W.2d 608, 613
- City of Deadwood v. Summit, Inc., 2000 SD 29, ¶ 9, 607 N.W.2d 22, 25
- R.B. Bewley v. Allright Carpark, Inc., 617 S.W.2d 547, 550 (Miss. Ct. App. 1981)
- Keefe v. Bekins Van & Storage Co., 540 P.2d 1132, 1135-36 (Colo. Ct. App. 1975)
- State v. Tupa, 691 N.W.2d 579, 583 (N.D. 2005)
- United States v. Simmonds, 235 F.3d 826, 832 (3d Cir. 2000)
- State v. Chambers, 138 P.3d 405, 415 (Kan. Ct. App. 2006)
- Shaffer v. Honeywell, Inc., 249 N.W.2d 251, 258 n. 8 (S.D. 1976)
- Moore v. Kluthe & Lane Ins. Agency, Inc., 89 S.D. 419, 432-33, 234 N.W.2d 260, 267-68 (1975)