

FILED
SUPERIOR COURT
OF GUAM

2021 OCT -1 PM 3:50

CLERK OF COURT

By: _____

IN THE SUPERIOR COURT OF GUAM

PEOPLE OF GUAM,

v.

MINSON DETOR,
DOB: 11/03/2002

Defendant.

IVERSON CHEWEK,
DOB: 03/03/2003

Defendant.

Criminal Case No. CF0308-19
GPD Report No. 19-15338

DECISION AND ORDER
GRANTING THE PEOPLE'S
REQUEST FOR RESTITUTION

INTRODUCTION

This matter came before the Honorable Alberto C. Lamorena, III on September 23, 2021 for a restitution hearing. Assistant Attorney General Dannis Le represents the People, Attorney Sam Teker represents Minson Detor ("Defendant Detor"), and Attorney Terence Timblin represents Iverson Chewek ("Defendant Chewek"). Having duly considered the evidence presented, oral arguments, and the applicable law, the Court now issues the following Decision and Order and **GRANTS** the People's request for restitution.

BACKGROUND

On June 17, 2019, a grand jury returned an Indictment against Defendant Detor, charging him with Charge One: Theft of a Motor Vehicle (as a 2nd Degree Felony), Charge Two: Theft by Receiving (as a 2nd Degree Felony), and Charge Three: Unauthorized Use of a Motor Vehicle (as a Misdemeanor). Indictment (Jun. 17, 2019). A grand jury also returned an Indictment against

1 Defendant Chewek, charging him with Charge Four: Theft by Receiving (as a 2nd Degree Felony)
2 and Charge Five: Unauthorized Use of a Motor Vehicle (as a Misdemeanor). Id.

3 Defendants Detor and Chewek each entered into plea agreements, pleading guilty to
4 Unauthorized Use of a Motor Vehicle (as a Misdemeanor). *See* Minute Entry (Oct. 9, 2019);
5 Minute Entry (Nov. 6, 2019). Each Defendant further agreed that they “shall be held liable for full
6 restitution... to the victim... in an amount to be determined by Court at a restitution hearing.” Plea
7 Agreement at 3 (Dec. 3, 2019); Plea Agreement at 3 (Jan. 14, 2020). Thereafter, People provided
8 the Court with a restitution summary prior to the scheduled hearing date. Submission of Restitution
9 Summary (“Restitution Report”) (Jun. 2, 2020). This Restitution Report indicated that Anna Kao
10 (“Victim”) was requesting six thousand dollars (\$6,000.00) for cash that was stolen, seven hundred
11 dollars (\$700.00) for an iPhone 7 that was stolen, and one thousand dollars (\$1,000.00) covering an
12 automobile insurance deductible. Id.

13 Defendant Chewek subsequently filed a Response to the Restitution Report, indicating that
14 he opposed the six thousand dollar (\$6,000.00) cash and seven hundred dollar (\$700.00) iPhone
15 requests because his involvement did not begin until after cash and iPhone were stolen. Defendant
16 Chewek’s Response to Restitution Report at 2 (Jun. 4, 2020).

17 The Court held a restitution hearing on September 23, 2021. After hearing the arguments of
18 the parties, the Court took the matter under advisement.

19 DISCUSSION

20 A person convicted of a crime may be ordered to pay restitution in the amount of:

21 (c) One Thousand Dollars (\$1,000.00), when the conviction is of a misdemeanor;
22 (e) Any higher amount equal to double the pecuniary gain to the offender or loss to
23 the victim caused by the conduct constituting the offense by the offender. In such
24 case the court shall make a finding as to the amount of the gain or loss, and if the
25 record does not contain sufficient evidence to support such a finding the court may
conduct a hearing upon the issue. For purposes of this Section, the term “gain” means
the amount of money or the value of the property derived by the offender and the
term “loss” means the amount of value separated from the victim;

26 9 G.C.A. § 80.50(c), (e). This means that the Court may order the Defendants to pay restitution up
27 to one thousand dollars (\$1,000.00) without any specific findings but must make findings for any
28 higher amount, not to exceed double the loss of the victim or gain of the Defendants. *People v.*

1 *Mallo*, 2008 Guam 23 ¶ 43. Here, the People seek seven thousand seven hundred dollars
2 (\$7,700.00) in restitution for Victim's losses, requiring the Court to make specific findings
3 regarding those losses. *See id.* The People bear the burden of proving losses by a preponderance of
4 the evidence. *See United States v. Wakine*, 543 F.3d 546, 556 (9th Cir. 2008).

5 At the hearing, the Court heard the Victim's testimony. Victim testified that on May 28,
6 2019, she awoke to find her front door left open. Court Recording at 9:27:10 (Sep. 23, 2021).

7 After thoroughly searching her house, Victim discovered that a bag containing seven to eight
8 thousand dollars (\$7,000-\$8,000) was missing. *Id* at 9:31:00. Victim testified that she was carrying
9 that much cash in her bag in anticipation of an upcoming trip to Taiwan. *Id* at 9:30:00. This
10 missing money was never returned to her. *Id* at 9:31:50.

11 Victim also testified that her iPhone 7 was stolen that night. *Id* at 9:32:30. Victim then
12 replaced her stolen iPhone 7 with an iPhone 11, costing her one thousand dollars (\$1,000.00). *Id* at
13 9:40:20. Victim stated that the iPhone 7 was purchased for roughly eight or nine hundred (\$800-
14 \$900). *Id* at 9:41:40. It is reasonable to believe that the iPhone 7 was valued at seven hundred
15 dollars (\$700.00) when it was stolen.

16 Finally, Anna Kao discovered her 2009 BMW 750I was missing. *Id* at 9:33:00. The police
17 later located Anna Kao's vehicle but its condition was so "dirty" and "messy" that she had to file an
18 insurance claim. *Id* at 9:35:00. This insurance claim involved a one thousand dollar (\$1,000.00)
19 deductible that Victim paid. Restitution Report at 2 (Jun. 2, 2020).

20 Having heard the testimony of the Anna Kao and the arguments of the parties, the Court is
21 satisfied that the People have met their burden of proving the victim's losses by a preponderance of
22 the evidence. *See Wakine*, 543 F.3d at 556. Accordingly, the Court shall grant the People's request
23 for restitution. However, since Defendant Chewek's agreed upon involvement in the crime did not
24 begin until after the cash and iPhone were already stolen, he should be held liable only for the
25 automobile insurance deductible.

26 CONCLUSION

27 For the reasons stated above, the Court **GRANTS** the People's request for restitution. It is
28 hereby **ORDERED** that Defendants Detor and Chewek pay restitution to the victim, Anna Kao, in

1 the amount of seven thousand seven hundred dollars (\$7,700.00). Defendant Deter is solely liable
2 for six thousand seven hundred dollars (\$6,700.00) of that amount. Defendants Deter and Chewek
3 are jointly and severally liable for one thousand dollars (\$1,000.00) of that amount.

4 A Status Hearing for this case is set for Thursday, November 18, 2021 at 10:00 a.m.

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6 **IT IS SO ORDERED** this October 1, 2021

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12 **HONORABLE ALBERTO C. LAMORENA, III**
13 **Presiding Judge, Superior Court of Guam**

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22 **SERVICE VIA E-MAIL**

I acknowledge that an electronic copy of the original was e-mailed to:

23 AG: S. Teker

24 J. Timblin

25 Date: 10/1/21 Time: 4:00

26 

27 Deputy Clerk, Superior Court of Guam