IN THE COURT OF COMMON PLEAS OF THE STATE OF DELAWARE

IN AND FOR SUSSEX COUNTY

ALICIA PYLES,	)	
	)	
Appellant/Defendant-below	)	
	)	
v.	)	Docket No.: CPU6-13-000220
	)	
	)	
RONALD AND NANCY TRICE,	)	
	)	
Appellees/Plaintiffs-below,	)	

Submitted July 17, 2013
Decided August 27, 2013

Alicia Pyles, *pro se*
Ronald and Nancy Trice, *pro se*

DECISION AFTER TRIAL

In this civil action, the Court is called upon to determine the damages owed to Plaintiffs, Roland and Nancy Trice, following the theft of jewelry and other personal items from their residence. On July 17, 2013, the Court held a bench trial in the above-captioned *de novo* appeal. After consideration of the evidence and the applicable law, the Court finds in favor of Plaintiffs in the amount of $1,500.00.

Findings of Fact

After considering the evidence and determining the weight and credibility such evidence should be given, the Court finds the following facts:

Plaintiffs Ronald and Nancy Trice are the parents of Ronald Trice, Jr. In 2010 and 2011, Ronald Trice, Jr. and Defendant Alicia Pyles, were in a relationship. From late 2010 through August, 2011, Ronald Trice, Jr. stole various items of jewelry from his parents, the Plaintiffs. Defendant Pyles assisted Ronald Trice, Jr., in the pawning or disposal of some of these items, but not all of them. The Court finds credible Defendant's testimony that she was unaware of the full extent of the thefts committed by Ronald Trice, Jr.

On August 3, 2011, Ronald Trice, Jr. and Defendant were arrested. Ronald Trice, Jr. was charged in Superior Court with felony thefts and related offenses, in each of which the State alleged he had committed thefts valuing in excess of $1,500.00. Defendant was charged in this Court with five counts each of Receiving Stolen Property Under $1500[1], Selling Stolen Property Under $1500[2] and Conspiracy in the Third Degree[3], for her role in the theft of Plaintiffs' jewelry and other personal items.

On November 7, 2011, Ronald Trice, Jr. pled guilty in Superior Court to misdemeanor Theft and Conspiracy in the Third Degree relating to the theft of Plaintiffs' jewelry and other personal items. He was ordered to pay $19,525.00 in restitution. Ronald Trice, Jr.'s sentence does not provide that his restitution order is joint and several with any co-defendant.

On November 14, 2011, pursuant to a plea agreement, Defendant pled guilty in this Court to one count of Conspiracy 3rd, and the State entered *nolle prosequis* on the remaining charges. In the plea agreement, Defendant agreed to pay restitution, joint and several with her co-conspirator, Ronald J. Trice, Jr., in an amount to be submitted by the State within thirty days of the plea. In neither the plea agreement, nor on the record of the plea, did Defendant agree to pay restitution in excess of the statutory misdemeanor value limit.[4] The State, however, submitted no request for *any* amount of restitution. Nearly a year later, on October 11, 2012, following the payment of her fines and costs, Defendant was discharged by the Court.

On November 27, 2012, Plaintiff Nancy Trice wrote to the Superior Court to request that the remainder of Ronald Trice Jr.'s restitution order be satisfied. Her letter stated, in pertinent part, "I would like to say the restitution has been paid in full [by] my son, Ronald J. Trice, Jr. … As far as I am concerned his debt has been paid in full." Subsequently, in its December 4, 2012 Violation of Probation Sentence of Ronald Trice, Jr., the Superior Court ordered: "As to restitution, the victim was in court and has waived the remaining balance of the restitution owed her."

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[1] 11. Del. C. §851.
[2] *Id*.
[3] 11 Del. C. §511(2).
[4] See, Plaintiffs' Exhibit "1".

On November 2, 2013, Plaintiffs filed a civil suit against Defendant in the Justice of the Peace Court, seeking recovery of $15,000.00 in damages. On February 8, 2013, the Justice of the Peace Court entered judgment in favor of Plaintiffs. Defendant timely filed a *de* novo appeal to this Court. On July 17, 2013, the Court held a trial *de novo*.

Discussion

The State failed to request, on behalf of the Plaintiffs herein, that Defendant be ordered to pay a specific amount of restitution as part of her related criminal sentence. Even if restitution had been ordered, such "[a]n order of restitution may not preclude the victim from proceeding in a civil action to recover damages from the offender. A civil verdict shall be reduced by the amount of restitution paid under the criminal restitution order."[5] Likewise, the State's failure to submit a restitution request does not preclude the Plaintiff-victims from seeking civil damages for the sentenced crime.

As to Defendant's civil liability for her sentenced crime, a guilty plea is treated as an admission by the party who entered the plea on the record.[6] That party may, then, provide the trier of fact with an explanation of the motivation behind the plea so that a proper determination as to the weight of that evidence may be reached.[7]

At trial, Plaintiffs offered testimony as to their ***belief*** that Defendant was fully involved and participated in all of the thefts committed by their son. However, Plaintiffs offered no credible evidence of such involvement, other than Defendant's plea to one misdemeanor conspiracy charge. Defendant acknowledged that she did assist Ronald Trice, Jr. in pawning a few of the items he stole from Plaintiffs, but contested their value and maintained that she was unaware the items were stolen at the time, notwithstanding her subsequent guilty plea.

Thus, at trial, the only issue before the Court was a determination of the damages. Plaintiffs seek $15,000.00 in damages. Plaintiffs have the burden of proving the extent and value of their damages,[8] and

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[5] 11 Del. C. §4106(e).
[6] *Kahler v. Purdy*, 1993 WL 189469 (Del. Super. April 1, 1993).
[7] *Id*.
[8] *JLJ, Inc. v. Am. Reliance Ins. Co.*, 1995 WL 945559 (Del. Super. Oct. 23, 1995).

must meet that burden by a preponderance of the evidence.[9] The Court is not persuaded that Plaintiffs have met that burden for recovery of the requested sum. Plaintiffs have failed to establish that Defendant was involved in the theft of all of the items claimed stolen, or to credibly prove the value of the particular items stolen. The Court finds that the total relief sought is speculative at best.

The Court reaches this conclusion after consideration of the following factors: 1. While Plaintiffs' son was charged with felony-level thefts, Defendant was charged only with misdemeanor-level thefts, each with a statutory element of value less than $1,500.00. 2. Defendant only pled guilty to one charge of misdemeanor Conspiracy. Thus, the probative value of her guilty plea is limited to her admission that she conspired with another person to commit a misdemeanor theft of less than $1,500.00 in value. 3. In her plea agreement, Defendant did not agree to be liable for restitution in excess of $1,500.00 or to pay restitution for the charges that were *nolle prose'd.* 4. Defendant credibly testified and admitted to a limited role in Ronald Trice Jr.'s thefts, and to the limited number of stolen items she was aware of at the time and helped pawn. 5. Plaintiffs have represented to the Superior Court that their son's restitution is "paid in full" and have otherwise waived restitution.

Finally, to prove damages at trial, Plaintiffs submitted a Bill of Particulars dated December 11, 2012, listing the items and corresponding estimated value.[10] Ronald Trice testified that the items mostly consisted of jewelry he purchased from his father, a jeweler, for Nancy Trice over the course of their marriage. Plaintiffs did not offer any receipts, photographs, insurance valuations or appraisals for the jewelry. Plaintiffs' evidence regarding valuation of the stolen items consisted primarily of Ronald Trice's testimony that he searched the Internet for items similar to those lost and estimated their value from that for his Bill of Particulars. Although Plaintiffs need not prove damages with absolute or mathematical certainty, they failed to present sufficient competent evidence to meet their burden of proof as to the total damages sought.

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[9] *Baker v. Tech Solutions*, 2008 WL 62547 (Del. Super. Jan. 4, 2008).
[10] See, Plaintiffs' Exhibit "2".

As mentioned above, the Bill of Particulars estimates the value of all the items to be $21,750.00.[11] The August 3, 2011 Criminal Complaint against Ronald Trice, Jr. estimated the value of the items at $18,000.00. The November 7, 2011 Superior Court sentence against Ronald Trice, Jr. ordered restitution in the amount of $19,525.00, but that amount appears to have been stipulated as part of the plea, and not determined by a hearing.

While the Plaintiffs have not persuaded the Court of the extent and value of the stolen property related to Defendant's guilty plea, the Court is satisfied it was worth at least $1,500.00. Defendant admitted in her criminal plea to involvement in a misdemeanor theft of less than $1,500.00. The Court therefore is convinced by the evidence that Defendant's criminal conduct was related to thefts of Plaintiffs' property in a proven amount of $1,500.00.

As mentioned above, a restitution order does not preclude a victim from pursuing a civil judgment against an offender.[12] However, any civil award must be reduced by the restitution paid under the criminal restitution order.[13] "Similarly, the statutory scheme of coordinating compensation requires a set-off against the restitution order for any payment that the victim receives from a third party."[14] Accordingly, "when a victim of a crime receives compensation from a third party, that amount is to be credited in the same manner as compensation received by the victim from the defendant through a civil action."[15] The purpose of restitution is to make the victim whole.[16] Thus, payment of civil damages and restitution must be coordinated to ensure full compensation for economic loss while preventing victims from receiving a windfall.[17]

Ronald Trice, Jr.'s criminal sentence ordered him to pay the Plaintiffs restitution in excess of $19,000. That order did not specify that his obligation was joint and several with Defendant herein. Defendant, in her criminal sentence, was ordered to pay restitution for **her** crime "joint and several" with

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[11] *Id*.
[12] *11 Del. C. §4106(e).*
[13] *Id*.
[14] *Locklear v. State*, 692 A.2d 898, 901 (Del. 1997).
[15] *Id*.
[16] See, *id*.
[17] See, *id*.

Ronald Trice, Jr. However, the State never submitted to the Court an amount of restitution it deemed related to Defendant's crime. The evidence shows Plaintiffs stated in a Superior Court submission that Ronald Trice, Jr.'s, restitution had been "paid in full," and that Court acknowledged that the restitution had been "waived" by the Plaintiffs. And yet the Plaintiffs subsequently filed a civil action against Defendant herein for approximately the same damages they "waived" against their co-defendant son, capped by the jurisdictional limit of the lower court. Even if the Plaintiffs had proved, in this trial, the Defendant's involvement in specific overall theft losses greater than $1,500.00, the Court would be concerned with their "paid in full" admission and waiver of restitution, and whether Defendant should be given "credit" for such an admission or waiver in this civil action. However, inasmuch as Ronald Trice Jr.'s "waived" restitution sentence was **not** ordered to be joint and several with Defendant's liability, the Court will not apply such credit to this judgment.

CONCLUSION

After consideration of the evidence offered and the credibility the Court ascribes to the testimony of the witnesses, the Court finds that Plaintiffs have failed to prove by a preponderance of the evidence the actual value of their theft losses, or which of those losses were attributable to Defendant's admitted criminal act. However, the Court is satisfied Defendant's admitted crime was responsible for at least the statutory value limit of that misdemeanor crime. Judgment is entered in favor of the Plaintiffs Ronald Trice and Nancy Trice, and against Defendant Alicia Pyles, in the amount of $1,500.00, plus pre-judgment and post-judgment interest from February 8, 2013 at the legal rate, plus costs of suit.

IT IS SO ORDERED this 27th day of August, 2013.

Kenneth s. Clark, Jr.

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Kenneth S. Clark, Jr.
Judge