

STATE OF WISCONSIN

CIRCUIT COURT

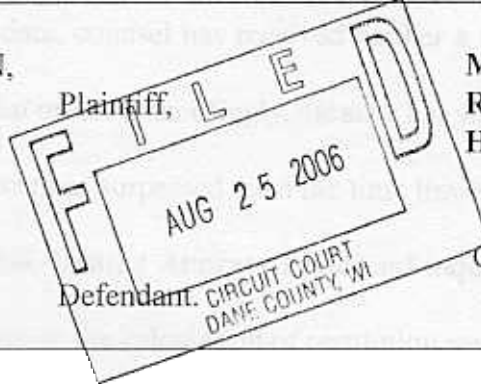
DANE COUNTY

Branch 4

STATE OF WISCONSIN,

vs.

SCOTT R. JENSEN,



MOTION TO DISMISS
RESTITUTION AND CANCEL
HEARING

Case No. 02 CF 2453

TO: Brian W. Blanchard
On behalf of the State
Dane County District Attorney
215 S. Hamilton Street, 3rd Floor
Madison, WI 53703

Attorney Stephen L. Morgan
On behalf of Sherry Schultz
Murphy Desmond
P.O. Box 2038
Madison, WI 53701-2038

Attorney Franklyn M. Gimbel
On behalf of Steven M. Foti
330 E. Kilbourn Avenue, Suite 1170
Milwaukee, WI 53202-3146

The accused, Scott R. Jensen, by his Attorney Stephen J. Meyer, moves the court, the Hon. Steven D. Ebert presiding, for an order eliminating the requirement of restitution in this matter and cancelling the restitution hearing set for September 8, 2006. In the alternative, an order directing the State to provide a proposed order of restitution with supporting itemization and rescheduling the restitution hearing to allow defense counsel adequate time to prepare.

The grounds for this motion are as follows:

1. On May 16, 2006, the court sentenced Scott R. Jensen. At that time, the court indicated that it was "going to order restitution." (Sentencing Transcript, page 28, lines 13-14). The court further ordered Mr. Blanchard to submit a restitution order within 45 days. (*Id.* at lines 16-17). A copy of this portion of the transcript is attached.

2. § 973.20(13)(c)1., *Stats.*, provides that the proposed order of restitution should be filed

with the court and served upon defense counsel within 90 days.

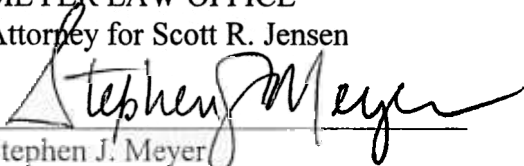
3. As of today's date, counsel has received neither a proposed order of restitution or an itemization in support of that order. Accordingly, the state has violated the order entered by the court on May 16th and in any event has surpassed even the time limits provided in the statute.

4. On April 7, 2006, District Attorney Blanchard inquired of the Chief Clerk's office to provide information to assist in the calculation of restitution owed in this case. On May 31, 2006, the clerk responded indicating that his office did not have the capacity to calculate the losses attributable to the defendants in this case. A copy of that correspondence is attached to this motion.

5. Pursuant to § 973.20(14)(a), *Stats.*, the burden of demonstrating by preponderance of the evidence the amount of loss sustained by a victim as a result of the crime is on the victim (the Wisconsin Assembly). They have indicated that they are unable to meet this burden.

The accused can only conclude that the only explanation for the failure of the District Attorney to provide a proposed restitution order and itemization in support of that order is due to the fact that it recognizes that the victim in this case is unable to meet its burden of proof. Wherefore, the accused seeks an order granting the relief requested above.

Dated this 24th day of August, 2006.

MEYER LAW OFFICE
Attorney for Scott R. Jensen
By: 
Stephen J. Meyer
State Bar No. 1011807
10 East Doty Street, Suite 507
Madison, WI 53703-3397

STATE OF WISCONSIN : CIRCUIT COURT : DANE COUNTY

STATE OF WISCONSIN,

Plaintiff,

vs.

Case No. 02 CF 2453

SCOTT R. JENSEN

Defendant.

PROCEEDINGS: SENTENCING

DATE: May 16, 2006

COURT: Circuit Court Branch 4
The Honorable Steven D. Ebert,
Circuit Court Judge, Presiding

APPEARANCES: District Attorney BRIAN BLANCHARD
and Assistant Attorney General,
ROY KORTE, appeared on behalf of
the Plaintiff: to-wit, the State
of Wisconsin.

STEPHEN J. MEYER, Attorney at
Law, appeared by phone on behalf
of the Defendant: to-wit, SCOTT
R. JENSEN, who appeared in court
in person.

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imposed.

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The sentence that will be imposed should provide a very clear and explicit warning to everyone, that is if you want to commit this crime, you should be prepared to do the time. I am going to order restitution. The amount of restitution and each defendant's ability to pay will be determined at another hearing. Mr. Blanchard, you have 45 days ultimately to submit a restitution order. I don't believe I'm under any mandate to hold a hearing within 60, and given my calendar, it's almost assured that there will not be any restitution hearing within 60 days.

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This was a long investigation. It was a drawn out prosecution. It had significant delays prior to reaching the trial. There were multiple pretrial motions that were made that were briefed and argued by

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counsel. The trial was lengthy and it consisted of a multitude of witnesses. Transcripts have not yet been completed and already I'm advised that appellate counsel have filed a notice of appearance.

I don't believe this case was factually complex, but certainly there was conflicting testimony. Mr. Jensen, you testified in your own defense. I could observe your demeanor while on the witness stand and throughout the trial. The jury in this case is commended for its attentiveness throughout the trial, it's copious note taking, and a thorough deliberation. And the jury found beyond a reasonable doubt that both

1 eligible for Challenge Incarceration or Earned Release.

2 I'll give you a copy of this written
3 explanation of the sentence and advise you that you do
4 have the right to appeal, but must act within 20 days
5 of today's date if you choose to do so. Anything
6 further from the State?

7 MR. BLANCHARD: I don't believe so, Your
8 Honor. Just to clarify the restitution. What the
9 Court would like to do at this time is invite the State
10 to submit a proposed order within 25 days and determine
11 at that time whether a hearing is necessary. I just
12 want to make sure.

13 THE COURT: I am expecting a hearing will be
14 necessary and I am assuming a half day will be
15 sufficient time.

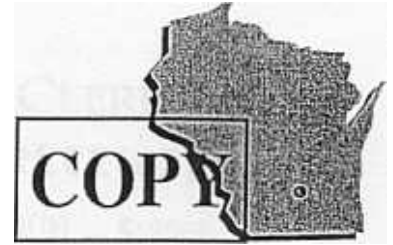
16 MR. BLANCHARD: Thank you, Your Honor. And,
17 Your Honor, one other thing. I'm sorry, Judge, just so
18 we're clear on the issue, that would be the attorney's
19 fees, the State's position is that that would not
20 properly be considered restitution per se but as a
21 condition of extended supervision. The Court just
22 didn't address it and the State is just making that
23 request.

24 THE COURT: I will do the same thing as I did
25 with Ms. Schultz. I'm going to reserve ruling on that

1 issue until restitution is determined



DISTRICT ATTORNEY DANE COUNTY



BRIAN W. BLANCHARD
District Attorney

JUDY SCHWAEMLE
Deputy District Attorney
Felony Unit

MICHAEL S. WALSH
Deputy District Attorney
Juvenile Unit

TIMOTHY R. VERHOFF
Deputy District Attorney
Criminal Traffic
& Misdemeanor Unit

SUZANNE C. BEAUDOIN
Manager,
Victim/Witness Unit

NANCY S. GUSTAF
Manager,
Deferred Prosecution Unit

MARLYS K. HOWE
Manager,
Domestic Violence Unit

NANCY L. MAVES
Office Services Supervisor

April 7, 2006

Mr. Patrick Fuller
Chief Clerk, Wisconsin State Assembly
Office of the Assembly Chief Clerk
17 W. Main St., Room 401
Madison, WI 53703

Re: State v. Scott Jensen, Steven Foti, Sherry Schultz, and Bonnie
Ladwig

Case Nos. 02 CF 2453, 02 CF 2454, 02 CF 2455, and 02 CM 4306

Dear Mr. Fuller,

With the convictions of Mr. Jensen, Mr. Foti, Ms. Schultz, and Ms. Ladwig, and the sentencing of Mr. Foti as to all matters excluding restitution, I invite you to provide any information on behalf of the Wisconsin Assembly that you believe could be relevant to calculation to restitution owed to the State of Wisconsin as a result of the conduct reflected in the Criminal Complaint in the above referenced case and the evidence adduced at trial. We consider the victim in this case to be the Wisconsin Assembly, as represented in this matter by your office. The state will undertake to calculate all losses reasonably attributable to the defendants in this case with or without any additional information from your office, but we invite you to provide to this office any information that you think would be relevant to Judge Ebert at sentencing hearings now set for May 16, 2006. Thank you for your cooperation in this matter.

Sincerely,



Brian W. Blanchard

BWB/mlb

C: AAG Roy Korte

✓ Atty. Stephen Meyer
Atty. Franklyn Gimbel
Atty. Stephen Morgan
Atty. Mark Nielsen

RECEIVED

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WISCONSIN ASSEMBLY CHIEF CLERK

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JUN - 5 2006

PATRICK E. FULLER

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17 West Main Street, Suite 401
Madison, WI 53708-8952
608-266-1501
Fax: 608-266-5617
E-mail: Patrick.Fuller@legis.state.wi.us

May 31, 2006

Brian W. Blanchard, Esq.
Dane County District Attorney
Dane County Courthouse
215 S. Hamilton Street, Room 300
Madison, WI 53703-3297

RE: State v. Scott Jensen, Steven Foti, Sherry Schultz, and Bonnie Ladwig
Case Nos. 02-CF-2453, 02-CF-2454, 02-CF-2455, and 02-CM-4306

Dear Mr. Blanchard:

This letter responds to your invitation to submit information on behalf of the Wisconsin State Assembly in regards to the calculation of restitution owed to the State of Wisconsin in the above referenced cases.

You invited me to provide information to you that I may deem relevant. As you are aware, until the reforms that were instituted by the Assembly in 2001, legislative staff was not required to keep detailed time sheets. Likewise, the Assembly did not have a system for tracking the cost of state equipment and other resources utilized by staff. As a result, I do not have records that would allow me to determine the actual number of hours of state time spent for campaign purposes or hours and type of equipment used for the same. Therefore, I do not have the capacity to calculate the losses attributable to the defendants in this case.

Sincerely,

Patrick E. Fuller
Assembly Chief Clerk
Wisconsin State Assembly

PEF:lj

CC: AAG Roy Korte
Atty. Stephen Meyer
Atty. Franklyn Gimbel
Atty. Stephen Morgan
Atty. Mark Nielsen