

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JARED MICHAEL JOHNSTON,

Defendant-Appellee.

UNPUBLISHED

June 29, 2010

No. 291374

Montcalm Circuit Court

LC No. 08-010970-FH

Before: MURRAY, P.J., and SAAD and M.J. KELLY, JJ.

PER CURIAM.

A jury acquitted defendant of negligent homicide but convicted him of operating a motor vehicle without insurance, MCL 500.3102(2). The trial court ordered defendant to pay \$14,542.63, which included \$13,397.63 in restitution. Defendant appeals the trial court's denial of his motion to vacate restitution, and we affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Defendant turned his vehicle in front of a motorcycle driven by Andrew Selders and the vehicles collided. Selders died as a result of the accident. Defendant had no insurance on his vehicle, and the court ordered defendant to pay restitution to cover Selders' funeral and medical expenses, as well as the cost of the motorcycle.

Defendant argues that the trial court erroneously ordered restitution under the Crime Victim's Rights Act (CVRA), MCL 780.751 *et seq.*¹ Defendant specifically claims that the CVRA does not apply because the failure to secure insurance is not a misdemeanor punishable

¹ In *People v Dimoski*, 286 Mich App 474, 476; 780 NW2d 896 (2009), this Court stated:

This Court generally reviews an order of restitution for an abuse of discretion. *People v Cross*, 281 Mich App 737, 739; 760 NW2d 314 (2008); *In re McEvoy*, 267 Mich App 55, 59; 704 NW2d 78 (2005). But when the question of restitution involves a matter of statutory interpretation, the issue is reviewed de novo as a question of law. *Cross*, 281 Mich App at 739; *In re McEvoy*, 267 Mich App at 59.

by imprisonment for more than one year or a felony. Defendant cites MCL 780.766, which provides for restitution when sentencing a defendant “convicted of a crime.” A “crime” is defined by MCL 780.752(b) to mean “a violation of a penal law of this state for which the offender, upon conviction, may be punished by imprisonment for more than one year or an offense expressly designated by law as a felony.” However, another provision of the CVRA, MCL 780.826, expressly provides for restitution for misdemeanors, and defines a misdemeanor as “a violation of a law of this state or a local ordinance that is punishable by imprisonment for not more than 1 year or a fine that is not a civil fine, but that is not a felony.” This applies to defendant’s conviction for failing to maintain insurance.

MCL 780.826(2) requires a court to order full restitution “to any victim of the defendant’s course of conduct that gives rise to the conviction or to the victim’s estate.” Subsection (1)(a) defines a victim as “an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a misdemeanor.” Defendant argues that the applicable “course of conduct” is that which led to the victim’s death. However, the conviction at issue is for the failure to maintain insurance. “Restitution encompasses only those losses that are easily ascertained and are a direct result of a defendant’s criminal conduct. *People v Orweller*, 197 Mich App 136, 140; 494 NW2d 753 (1992).” *People v Gubachy*, 272 Mich App 706, 709; 728 NW2d 891 (2006). As a result of the criminal conduct of failing to secure insurance, certain expenses that would have been covered by a policy of insurance on defendant’s vehicle were not covered. Thus, these creditors were the victims of defendant’s course of conduct that led to his conviction.

Affirmed.

/s/ Christopher M. Murray
/s/ Henry William Saad
/s/ Michael J. Kelly