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DISTRICT II

March 2, 2016

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You are hereby notified that the Court has entered the following opinion and order:

2015AP951-CR

State of Wisconsin v. Ronald Sasseti (L.C. # 2010CF407)

Before Neubauer, C.J., Reilly, P.J., and Hagedorn, J.

Ronald Sasseti appeals from an order declining to find that his payments made pursuant to a civil settlement agreement fulfilled his court-ordered criminal restitution obligation. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2013-14).¹ We affirm.

¹ All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

In 2011, Sasseti pled guilty to one count of theft by fraud in an amount greater than \$10,000. According to the complaint, Sasseti, the owner of VETS, a veterinary supply company, convinced M.G., as trustee for the J.M.G. Family Trust, to pay him \$60,000 in exchange for Sasseti's interest in a lucrative long-term lease of equipment to a named veterinary clinic. After the trust failed to receive any payments from the vet clinic, law enforcement discovered that the lease never existed.

At sentencing, the trial court ordered a five-year term of probation and set restitution at \$376,740.50, acknowledging that the parties might later agree to a lesser restitution amount. The sentencing court stated that if "an agreed-amount of restitution, either \$376,000 is paid or agreement amount of lesser restitution has been paid, then ... the probation will terminate at the end of the three years." The judgment stated: "Probation may discharge after three (3) years if the defendant has complied with conditions of probation including full payment of restitution in the amount of \$376,740.50 or an agreed lesser amount."

Previously, another company, KEM Northern, LLC, filed a civil suit and obtained a \$510,834.94 civil judgment against Sasseti and VETS.² Several days after Sasseti's sentencing, the parties to the civil suit entered into a settlement agreement dated June 28, 2011. Soon thereafter, KEM again filed suit, alleging that Sasseti breached the prior agreement. In December 2012, the parties negotiated a new civil settlement agreement wherein Sasseti agreed to pay \$105,000, and KEM, the J.M.G. Family Trust, and M.G. agreed to dismiss the pending

² The civil lawsuit was somehow connected to Sasseti's theft from the J.M.G. Family Trust, but the precise relationship is not clear from the record.

lawsuit and release Sasseti from his liability under the civil court judgment. The December 2012 agreement stated as its purpose that:

The parties desire to resolve the dispute concerning an[y] alleged breaches of the foregoing June 28, 2011 Settlement Agreement and dismiss the Lawsuit as well as satisfy and terminate all further obligations arising under that June 28, 2011 Settlement Agreement with full satisfaction of the [civil] Judgment entered on September 3, 2009 before the Circuit Court of Walworth County, Wisconsin, subject to the terms of this Settlement and Release Agreement.³

Additionally, the agreement stated:

KEM NORTHERN and the [J.M.G.] FAMILY LIVING TRUST, by [M.G.], Trustee/Personal Representative agree that if asked by the District Attorney or Criminal Court with respect to People v. Sasseti, Case No. 10-CF-407, Walworth County, Wisconsin, they will confirm that this Agreement represents payment in full [of] all civil matters identified above and they have no objection to any request by counsel for Ronald Sasseti for the immediate termination of the Restitution Order entered in Case No. 10-CF-407 and a finding by the Criminal Court that no further restitution is owed.

In May 2014, Sasseti filed a motion in connection with his criminal case requesting a finding by the trial court that the criminal restitution order in 10-CF-407 “has been paid in full by virtue of the Defendant’s complete fulfillment of the terms of his agreement with the victim in 09 CV 478.” In response, M.G. wrote a letter indicating that to the extent Sasseti represented that the victims actually agreed “the full restitution in the criminal case has been made[,] [t]hat is

³ To that end, the December 2012 agreement provided that upon its fulfillment, Sasseti would be released “from any and all causes of action [or] claims of any kind whatsoever, direct or indirect, arising out of or based upon any of the following: The lawsuit filed in Walworth County, Wisconsin as case No. 2009CV478, the lawsuit filed in McHenry County, Illinois as case No. 2012AR41, and the Settlement Agreement dated June 28, 2011 entered into between the parties.”

not correct.” M.G. stated that the victims did not object to “Mr. Sassetti’s counsel requesting that the Court find that no further restitution is owed” and confirmed the victim “will respect whatever approach the District Attorney’s Office will make in this case.” A new judge presided at the motion hearing and denied Sassetti’s request, determining there was no agreement that the settlement amount “satisfies the totality of the restitution that was claimed and actually ordered by the court.” Sassetti appeals.

We conclude that the trial court properly declined to find that Sassetti’s \$105,000 payment under the civil settlement agreement constituted full and final satisfaction of the \$376,740.50 criminal restitution order. Criminal restitution “is a remedy that belongs to the State.” *State v. Walters*, 224 Wis. 2d 897, 904, 591 N.W.2d 874 (Ct. App. 1999). A crime victim cannot release a defendant from criminal restitution liability. *Id.* at 909. The sentencing court ordered restitution in the “amount of \$376,740.50 or an agreed lesser amount.” There was no agreement between the State and Sassetti to adjust the restitution amount; therefore, the criminal restitution order was never adjusted or eliminated through an agreement as contemplated by the sentencing court.⁴

Additionally, there was no agreement between the victims and Sassetti to lower the criminal restitution to \$105,000, the amount of the operative civil settlement agreement. “[A] civil settlement agreement can have no effect upon a restitution order while the defendant is on probation unless the circuit court first finds that continued enforcement of the restitution order

⁴ Sassetti did not address this argument in his appellant’s brief and did not file a reply brief. We deem this a concession. See *Schlieper v. DNR*, 188 Wis. 2d 318, 322, 525 N.W.2d 99 (Ct. App. 1994) (a proposition asserted by a respondent on appeal and not disputed by the appellant’s reply is taken as admitted).

would result in a double recovery for the victim.” *Huml v. Vlazny*, 2006 WI 87, ¶50, 293 Wis. 2d 169, 716 N.W.2d 807. Though M.G. agreed that the claims underlying the civil suit encompassed the amounts claimed as restitution in the criminal case, the civil agreement settled the lawsuit for \$105,000, less than twenty percent of the original civil judgment. Sassetti’s motion requesting a finding of full satisfaction did not seek any set-off based on amounts paid in connection with the civil suit, and he offered no evidence demonstrating that enforcement of the restitution order would result in double-recovery for the victim.

Upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

Diane M. Fremgen
Clerk of Court of Appeals