



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT II

April 12, 2023

To:

Hon. James G. Poulos
Circuit Court Judge
Electronic Notice

Sarah Adjemian
Clerk of Circuit Court
Washington County Courthouse
Electronic Notice

Christopher P. August
Electronic Notice

Sarah Barwise Joseph
Wisconsin State Public Defender
Suite 912
735 North Water Street
Milwaukee, WI 53202

Anne Christenson Murphy
Electronic Notice

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

2022AP828-CR

State of Wisconsin v. Matthew R. Naab (L.C. #2020CF395)

Before Gundrum, P.J., Grogan and Lazar, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Matthew R. Naab appeals from a judgment of the circuit court ordering restitution. He asserts the court erroneously exercised its discretion in ordering him to pay restitution in the amount of \$2,847.45 for the cremation of S.R.L.'s body and related services. 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 (2021-22).¹ For the following reasons, we affirm.

Background

On July 27, 2020, Naab drove S.R.L. to Milwaukee where Naab purchased cocaine and S.R.L. purchased heroin. Sometime thereafter, S.R.L. overdosed and died, and Naab drove S.R.L.'s body out to a marsh and dumped it there. When questioned by police, Naab provided various knowingly untrue stories that prevented authorities from locating Naab's body for weeks. After nearly a month, Naab admitted to police that he had "freaked out" when S.R.L. overdosed and died, and he informed them where they could find S.R.L.'s body. On August 24, 2020, authorities found human remains in the location where Naab indicated he had dumped S.R.L.'s body, and they later confirmed that those were the remains of S.R.L.

Naab was charged with numerous crimes, including hiding a corpse and two counts of obstructing an officer. He pled no contest to hiding a corpse and guilty to one count of obstructing an officer and two counts of misdemeanor bail jumping. Other charges were dismissed and read in.

At Naab's sentencing, S.R.L.'s mother explained, among other things, how S.R.L.'s body was so decomposed after having been dumped in a marsh and laying there for weeks that she could not identify him, and she had to "wait for months after DNA testing to confirm it was indeed" the body of S.R.L. Due to the condition of the body, she was "unable to plan a funeral.

¹ All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

No open casket. My only choice was cremation,” which traumatized her because she was unable to “say goodbye” or “tell him one last time” how much she loved him and because S.R.L. “was not respected in his death.”

Following Naab’s sentencing, a restitution hearing was held at which Naab contested paying restitution for the cost of S.R.L.’s cremation and related services. The circuit court ordered restitution in the requested amount of \$2,847.45. Naab appeals the restitution order.

Discussion

We will affirm a circuit court’s restitution order absent an erroneous exercise of discretion by the court. *State v. Canady*, 2000 WI App 87, ¶6, 234 Wis. 2d 261, 610 N.W.2d 147. Whether a court is authorized by statute to order restitution based upon an undisputed set of facts is a question of law we review de novo. *State v. Vanbeek*, 2009 WI App 37, ¶6, 316 Wis. 2d 527, 765 N.W.2d 834. Generally speaking, a victim is entitled to restitution if he/she demonstrates “by the preponderance of the evidence the amount of loss sustained by a victim as a result of a crime considered at sentencing.” WIS. STAT. § 973.20(1r), (14)(a). “[R]estitution is the rule and not the exception,” and “should be ordered whenever warranted.” *State v. Wiskerchen*, 2019 WI 1, ¶22, 385 Wis. 2d 120, 921 N.W.2d 730 (citation omitted). “[C]ourts should ‘construe the restitution statute broadly and liberally in order to allow victims to recover their losses as a result of a defendant’s criminal conduct.’” *Id.* (citation omitted).

In the present case, S.R.L.’s mother explained at Naab’s sentencing that S.R.L.’s body was so decomposed after having been dumped by Naab in a marsh and laying there for weeks that she felt she had no choice but to cremate S.R.L.’s remains. Naab’s own choices to hide S.R.L.’s body and repeatedly lie to law enforcement in connection with that—crimes for which

Naab was convicted—led to the extreme decomposition of S.R.L.’s body. This decomposition was the reason S.R.L.’s mother felt the need to have S.R.L.’s remains cremated. Broadly construing the restitution statute in favor of “allow[ing] victims to recover their losses as a result of a defendant’s criminal conduct,” we conclude the circuit court did not err in ordering Naab to pay the restitution for the cremation and related services. *See Id.* (citation omitted).

IT IS ORDERED that the judgment of the circuit court is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals