

## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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## IN THE COURT OF APPEALS OF INDIANA

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Dwain B. Horner,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

July 6, 2022

Court of Appeals Case No.  
21A-CR-2819

Appeal from the Steuben Circuit  
Court

The Honorable Allen N. Wheat,  
Judge

Trial Court Cause No.  
76C01-1809-F3-742

**Weissmann, Judge.**

- [1] Dwain Horner pleaded guilty to three counts of Level 4 felony burglary. Both Horner and the State acknowledge the trial court improperly ordered Horner to pay restitution twice for the victim's same chiropractor visit. We reverse and remand for entry of a corrected restitution order.

## Facts

- [2] After convicting Horner on three counts of burglary, the trial court ordered him to pay \$2,468.94 in restitution for medical services received by one of his victims, Cynthia Sigrist. Specifically, Horner was ordered to pay \$394.47 to Sigrist and \$2,074.47 to the Indiana Criminal Justice Institute, both of which amounts included \$394.47 for Sigrist's lone chiropractor visit. See Exhs. pp. 23-26.

## Discussion and Decision

- [3] Restitution orders are within the trial court's discretion and will only be reversed when no evidence or reasonable inferences support the trial court's decision. *Archer v. State*, 81 N.E.3d 212, 215-16 (Ind. 2017). Here, Horner asserts, and the State concedes, that the trial court erred by ordering Horner to pay \$394.47 to both Sigrist and the Indiana Criminal Justice Institute for the same chiropractic treatment. We agree. See *Little*, 839 N.E.2d 807, 810 (Ind. Ct. App. (2010) (court held that the trial court erred when it ordered defendant to

pay for duplicate medical charges in restitution). Accordingly, we reverse and remand for the trial court to reduce the restitution order by \$394.47.

Robb, J., and Pyle, J., concur.