MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Jason E. Trowbridge,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

September 7, 2023

Court of Appeals Case No. 23A-CR-763

Appeal from the Noble Circuit Court

The Honorable Michael J. Kramer, Judge

Trial Court Cause No. 57C01-2112-F5-81

Memorandum Decision by Judge Weissmann
Judges Riley and Bradford concur.

Weissmann, Judge.

[1] When Jason Trowbridge's elderly grandfather was diagnosed with dementia, Trowbridge and his mother offered to assist his grandparents in paying their bills. After his grandmother agreed, Trowbridge instead helped himself to the elderly couple's money, credit card, and credit line. Trowbridge, who has a long history of financial crimes, ultimately stole more than $50,000 over 1½ years.

[2] Trowbridge pleaded guilty to theft, admitted he was a habitual offender, and agreed to pay restitution. The State alleged the correct restitution figure was $130,000. Trowbridge claimed he owed less than half that amount. The trial court accepted neither figure, instead ordering Trowbridge to pay restitution of $72,019.95, an amount that Trowbridge appeals. Because the evidence does not support the trial court's calculations, we reverse and remand for a new restitution hearing.

Facts

[3] Trowbridge began stealing from his grandparents almost immediately after his grandmother gave him access to their checking account. Using that account information, Trowbridge added his name to his grandparents' credit card account and arranged to have the bills sent only to him electronically. He then used that credit card for thousands of dollars in personal expenses and cash payments to himself.

[4] Trowbridge also accessed a $50,000 credit line that his grandparents had obtained for emergency use after his grandfather's dementia diagnosis.

Although his grandparents never accessed that credit line, Trowbridge nearly depleted it.

[5] As part of his effort to prolong his scheme and avoid detection, Trowbridge used funds from his grandparents' accounts to pay the monthly bills for the debt he fraudulently accrued in their names. Trowbridge also secured a $10,000 loan in his grandfather's name from his grandfather's life insurance policy. Meanwhile, his grandparents continued to live modestly on their Social Security benefits.

[6] Trowbridge's grandmother first discovered his theft when she tried to pay income tax bills of nearly $10,000 from the credit line in August 2021. The bank informed Trowbridge's grandmother that the account lacked sufficient funds to pay the taxes. By that time, Trowbridge's theft had left his grandparents heavily in debt, with damaged credit, and facing foreclosure of their long-time home. Trowbridge's grandmother reported the theft to police.

[7] In December 2021, the State charged Trowbridge with Level 5 felony theft and alleged him to be a habitual offender. Seven months later, Trowbridge's grandfather died. To stave off the home foreclosure, Trowbridge's grandmother obtained a personal loan to repay the credit line that Trowbridge had fraudulently used.

[8] Trowbridge pleaded guilty under a plea agreement that called for an eight-year prison sentence. He also agreed to pay restitution. The trial court accepted the plea agreement and entered a judgment of conviction on the Level 5 felony. At

the restitution hearing, the lead detective in Trowbridge's case testified that he could not determine the exact amount of Trowbridge's theft. He noted that Trowbridge had moved funds routinely between the accounts and used funds from one account to pay the bills of another. Although the detective lacked the grandparents' credit card information, he testified the amount stolen by Trowbridge from his grandparents' accounts totaled around $130,000.

[9] Trowbridge claimed at the restitution hearing that he was responsible for losses of only $59,726.29 from his grandparents' accounts—specifically, $49,726.29 from the credit line account, $10,000 from the life insurance policy, and $516.04 in interest. He argued that he had already reimbursed his grandparents $7,401.29, although he did not fully document that amount. Trowbridge thus claimed the correct restitution figure was $55,556.96.

[10] The trial court accepted neither party's calculations and, instead, provided its own:

	$54,449.95 (reflected on the final credit line statement available to the court)
+	$10,000 (life insurance proceeds)
+	$4,950 (checks written by Trowbridge from his grandparents' checking account)
+	$7,780 (balance on the credit card)
-	$5,160 (Trowbridge's payments)

Based on this calculation, the trial court ordered Trowbridge to pay $72,019.95 in restitution.

Discussion and Decision

[11] Trowbridge claims the evidence does not support the trial court's restitution calculation. The State agrees that at least part of the award is unsupported. We thus reverse and remand for a new restitution hearing.

[12] We review a trial court's restitution order for an abuse of discretion. *Baker v. State*, 70 N.E.3d 388, 390 (Ind. Ct. App. 2017). A trial court abuses its discretion when the restitution order is not supported by evidence of actual loss sustained by the crime victim as "a direct and immediate result" of the defendant's criminal acts. *Rich v. State*, 890 N.E.2d 44, 51 (Ind. Ct. App. 2008); *Garcia v. State*, 47 N.E.23d 1249, 1252 (Ind. Ct. App. 2015). Evidence leading only to "mere speculation or conjecture" about the victim's actual loss is insufficient. *Garcia*, 47 N.E.3d at 1252.

[13] Here, the parties and the trial court all reached different restitution figures, none of which completely conformed to the evidence. The parties appear to agree that at least two elements of the trial court's calculation—the $7,780 in credit card charges and the $54,449.95 in credit line withdrawals—are unsupported by the evidence.

[14] As to the credit card charges, the parties agree that the record contains no credit card statements or sworn testimony from which the trial court could have calculated a $7,780 loss. As to the credit line withdrawal, the parties agree that

the trial court's figure is too high. Although Trowbridge does not offer an alternative calculation, the State argues the figure should be no lower than Trowbridge admitted at the restitution hearing: $50,242.33 ($49,726.29 in withdrawals + $516.04 in interest). The State suggests we reverse the trial court's calculations as to both the credit card and credit line account losses but affirm the rest of the trial court's calculations. Trowbridge, on the other hand, seeks remand for calculation of a new restitution figure, particularly because he believes other parts of the trial court's restitution calculation are wrong.

[15] We agree with Trowbridge that reversal of the entire restitution order and remand for a new restitution hearing are appropriate. Although the State bore the burden of proof on restitution, it failed to present evidence sufficient to support an accurate calculation of the damages directly caused by Trowbridge's theft. *See Morgan v. State*, 49 N.E.3d 1091, 1094 (Ind. Ct. App. 2016). Notably, neither party presented evidence specifically tracking the monies that Trowbridge moved from one account to another. The record also contains no detailed accounting of the charges or deposits legitimately made on behalf of Trowbridge's grandparents during that 1½-year period. Yet all this evidence was essential to the parties' respective claims at the restitution hearing.

[16] We therefore reverse and remand to the trial court with instructions to conduct a new restitution hearing, at which the State will be permitted to present, and Trowbridge will be allowed to confront, any additional evidence supporting his

grandparents' financial losses from Trowbridge's theft. *See Iltzsch v. State*, 981 N.E.2d 55, 57 (Ind. 2013) (reversing and remanding with similar instructions).

Riley, J., and Bradford, J., concur.