

SUMMARY STATEMENT

State v. Roy Cline Johnson

Docket No. 46500

Roy Cline Johnson pled guilty to felony aggravated driving under the influence of alcohol. The district court sentenced Johnson to a period of confinement of ten years, with three years determinate, and reserved the matter of restitution for 180 days.

After the 180 days expired, the victim's civil attorney, Jeffery McKinnie, filed a motion for preparation and copy of the judgment of conviction and motion for an order of restitution in Johnson's criminal case. Subsequently, Johnson and the victim executed a civil settlement for \$100,000, which released Johnson from all liability related to the accident. However, McKinnie continued to pursue the restitution action.

At a hearing on the motion for restitution, McKinnie presented oral argument in support of the motion for restitution and evidence of the victim's economic loss. The State's participation in the restitution hearing was limited to acknowledging the presence of a standing issue related to a non-party's ability to bring forth a motion within a defendant's criminal case. After consideration, the district court allowed the restitution hearing to go forward. The court found good cause existed for the court's consideration of the motion for restitution outside of the 180-day period and that the civil settlement, release, and prior insurance payments did not limit the court's ability to award restitution equal to the full amount of the victim's medical economic loss. The court entered a restitution order for \$101,665.64. Johnson appealed.

On appeal, Johnson argues the district court lacked the jurisdiction to grant the motion for restitution because it was filed by the crime victim, who was not a party to the defendant's criminal case. Alternatively, Johnson contends the district court abused its discretion by ordering restitution after the statutory time expired and in determining the amount of restitution. The Idaho Court of Appeals found that although crime victims have a right to restitution in a criminal case, a crime victim is not a party to a criminal case and does not have an independent right to intervene in a defendant's criminal case. Further, at the time of the restitution hearing, the victim had suffered no economic loss. Therefore, the Court of Appeals vacated the district court's order of restitution.