

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

STEVEN CALEB COPELAND,)
)
 Petitioner,)
)
 v.)
)
 THE STATE OF OKLAHOMA,)
)
 Respondent.)

NOT FOR PUBLICATION

Case No. C-2002-1136

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

JUL 22 2003

**SUMMARY OPINION GRANTING CERTIORARI IN PART
AND REMANDING FOR FURTHER PROCEEDINGS** MICHAEL S. RICHIE
CLERK

JOHNSON, PRESIDING JUDGE:

On June 20, 2002, Petitioner entered pleas of guilty to Count 1: Possession of a Stolen Vehicle (47 O.S.2001, § 4-103) and Count 2: Eluding a Police Officer (21 O.S.2001, § 540(A)) before the Honorable Jefferson D. Sellers, District Judge, in Tulsa County District Court Case No. CF-2002-2168. At a hearing held July 31, 2002, the district court imposed a judgment of guilt and sentenced Petitioner as follows: Count1, three years imprisonment, \$500 fine, and \$250 Victim's Compensation Assessment; Count 2, two years imprisonment, \$500 fine, and \$250 Victim's Compensation Assessment. The court ordered the sentences to run concurrently and gave Petitioner credit for time served. The court also ordered restitution of \$104,000 related to Count 1. On August 12, 2002, Petitioner filed a motion to withdraw his guilty pleas. At a hearing held August 28, 2002, the district court denied the motion. Petitioner timely lodged this certiorari appeal. At this Court's request, the State filed a brief in response to Petitioner's brief on June 4, 2003.

On appeal, Petitioner raises the following proposition of error:

The district court abused its discretion by denying Petitioner's application to withdraw his pleas.

After thorough consideration of the propositions, and the entire record before us on appeal, including the original record, transcripts, and the briefs of the parties, we find Petitioner's pleas to be valid, but remand for further proceedings on the issue of restitution. In reaching this conclusion, we find as follows: (1) Petitioner was aware, when he entered his negotiated pleas, that he would be liable for restitution reasonably related to his criminal conduct, and that whether any part of his negotiated sentence would be suspended was left to the district court's sole discretion after considering the Presentence Report. (2) Petitioner's own statements support the trial court's conclusion that he was involved not just in possessing a vehicle he knew to be stolen, but in first helping to remove other personal property from the vehicle, with the understanding that he would receive some of this property as compensation for disposing of the vehicle; thus, the trial court could properly consider the loss of this other personal property in assessing restitution. *Berget v. State*, 1991 OK CR 121, ¶ 16, 824 P.2d 364, 370; 22 O.S.2001, § 991f(A)(1), (3). (3) While the owner of the vehicle estimated his economic loss at \$104,000, the record does not contain sufficient information as to how that amount was arrived at, and consequently, whether it was reasonable. We conclude that a restitution hearing is appropriate under the circumstances. *Taylor v. State*, 2002 OK CR 13, ¶¶ 5-6, 45 P.3d 103, 105-06; *Honeycutt v. State*, 1992 OK CR 36, ¶¶ 33-40, 834 P.2d 993, 1000-01; 22 O.S.2001, §§ 991a(A)(1)(a), 991f.

DECISION

The Petition for Writ of Certiorari is **GRANTED IN PART**. The trial court's order regarding restitution is **VACATED**, and the case is **REMANDED** for a restitution hearing. In all other respects, the Judgment and Sentence is **AFFIRMED**.

AN APPEAL FROM THE DISTRICT COURT OF TULSA COUNTY

THE HONORABLE JEFFERSON D. SELLERS, DISTRICT JUDGE

APPEARANCES AT TRIAL

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OPINION BY JOHNSON, P.J.

LILE, V.P.J.:CONCUR
LUMPKIN, J.:CONCUR
CHAPEL, J.:CONCUR
STRUBHAR, J.:CONCUR

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