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DISTRICT I

October 27, 2026

To:

Hon. Anderson M. Gansner
Circuit Court Judge
Electronic Notice

Anna Hodges
Clerk of Circuit Court
Milwaukee County Safety Building
Electronic Notice

Aaron R. O'Neil
Electronic Notice

Jill Marie Skwor
Electronic Notice

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

2025AP1517-CR State of Wisconsin v. Jose Mixel Santiago-Vazquez
(L.C. # 2020CF2892)

Before Donald, C.J., Colón, P.J., and Petrashek, J.

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).

Jose Mixel Santiago-Vazquez appeals a judgment convicting him of substantial battery and disorderly conduct, each as a domestic abuse repeater. He also appeals from the order denying his postconviction motion to amend the restitution order. After reviewing the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2023-24).[1] We further conclude that the circuit court's decision entered on June 18, 2025, identified and applied the proper legal standards to the relevant facts to reach the correct conclusion. We therefore incorporate into this order the circuit court's

[1] All references to the Wisconsin Statutes are to the 2023-24 version.

decision, which we are attaching, and summarily affirm on that basis. *See* WIS. CT. APP. IOP VI (5)(a) (Nov. 30, 2009) (stating that this court may incorporate a circuit court opinion).

A jury convicted Santiago-Vazquez of one count of substantial battery and one count of disorderly conduct, each as a domestic abuse repeater. Following sentencing, the circuit court held a separate restitution hearing. The court ordered restitution for a number of items, including $427.16 for a plane ticket purchased by the victim for her daughter to travel from out of state to testify at trial.

Santiago-Vazquez filed a postconviction motion, which sought to amend the judgment of conviction to reclassify the $427.16 for the plane ticket as a cost of prosecution, pursuant to WIS. STAT. § 973.06, rather than as restitution, pursuant to WIS. STAT. § 973.20(5)(b). The circuit court denied the motion. This appeal follows.

The circuit court's decision denying Santiago-Vazquez's postconviction motion states the relevant legal standards and applicable facts. Accordingly, we adopt as our own the circuit court's decision, which offers a complete and thorough analysis of the issue Santiago-Vazquez now raises on appeal.

Therefore,

IT IS ORDERED that the judgment and order are summarily affirmed. *See* WIS. STAT. RULE 809.21.

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

Samuel A. Christensen
Clerk of Court of Appeals

FILED
06-18-2025
Anna Maria Hodges
Clerk of Circuit Court
2020CF002892

BY THE COURT:

DATE SIGNED: June 18, 2025

Electronically signed by Anderson Gansner
Circuit Court Judge

STATE OF WISCONSIN CIRCUIT COURT Branch 46 MILWAUKEE COUNTY

STATE OF WISCONSIN,

Plaintiff,

vs.

Case No. 20CF2892

JOSÉ MIXEL SANTIAGO-VÁZQUEZ,

Defendant.

DECISION AND ORDER
DENYING RULE 809.30 POSTCONVICTION MOTION

On June 13, 2025, the defendant by his attorney filed a Rule 809.30 postconviction motion to amend the restitution order of this case.

The defendant in this case faced charges of substantial battery and disorderly conduct, each as a domestic abuse repeater. The case proceeded to a jury trial that spanned three days, from August 15 through August 17, 2022. At the conclusion of the trial, the jury returned a verdict finding the defendant guilty on both counts. A sentencing hearing was subsequently held on September 16, 2022, before the Honorable Judge Audrey Skwierawski. However, the issue of restitution was postponed for a separate hearing.

At the restitution hearing on January 5, 2023, the State requested $3,442.83 in restitution, including $421.99 for an HP Pavilion Computer, $528 for a Samsung 65-inch television, $177 for an Apple iPhone 8, $1,788.21 for a 4K Ultra television, a total of $136.95 for medications, and $427.16 for a plane ticket purchased by the victim for her daughter to travel from out of state to

testify at trial. (R.99:4). The victim testified that she had paid for the ticket herself, even though the District Attorney's Office typically covers such costs. The court heard additional testimony supporting the requested restitution. Defense counsel stipulated to restitution for the phone and medication, but not to the other amounts.

The hearing was adjourned to May 5, 2023. By that time, the State amended its restitution request to $177 for the phone, $525 for the Samsung television, a total of $136.95 for the medications, and $427.16 for the flight. After a review of the trial transcript, Judge Skwierawski found that restitution for the phone, medications, and the flight were supported as reasonable out-of-pocket expenses pursuant to § 973.20(5)(b). The court denied restitution for the television due to a lack of clear evidence connecting the loss to the defendant's actions. (R.134:12-14). In sum, the court ordered restitution in the amount of $741.11.[1]

The issue in these postconviction proceedings is whether the $427.16 qualifies as restitution under Wisconsin law. Judge Skwierawski observed that WIS. STAT. § 973.20(5)(b) allows for restitution for reasonable out-of-pocket expenses incurred by a victim. She concluded that the cost of the plane ticket fell within that category:

> THE COURT: The flight: I believe that the flight, which was testified to as a plane ticket for the victim's daughter, who did, in fact, testify on the date of the trial and whose transcript I read and whose testimony, of course, I heard live during the trial.
>
> The plane ticket was to allow for that victim to participate in this case, and that -- well, she's not technically a victim under the statute. However, I believe that the testimony of our victim was that our victim did pay the money for that ticket, and I do believe that under the statute section that I referred to –
>
> Now, I mean, I should tell everybody, I looked long and hard for a case that had this specific fact pattern of paying for a plane ticket, and I could find none.
>
> But I do believe that that statutory section that I cited, 973.20(5)(b), does allow for restitution to be made for out-of-pocket expenses incurred by the victim which resulted from the filing of charges or cooperating with the investigation and prosecution of the crime.

[1] Judge Skwierawski is no longer on the bench, and therefore, the matter has been assigned to this court as the successor to her former domestic violence calendar.

> I do believe that the airplane ticket for her daughter, to have her daughter come and testify, falls into that category because it is an out-of-pocket expense incurred by the victim, and it did result from the filing of charges and cooperating in the investigation and the prosecution of the crime.
>
> So I do believe that the $427.16 is covered by the restitution statute. And as I said, I could not find a comparable case law scenario that covered something like that, but I believe that under the theory that I have, based in the statute, I can order restitution and I will for that amount.

(R.134:11-12). The defendant argues, relying on *State v. Bender*, 213 Wis. 2d 338, 570 N.W.2d (Ct. App. 1997), that travel expenses constitute a cost rather than restitution, and therefore the cost of the plane ticket should not have been awarded as restitution in this case. He also contends that § 973.20 does not expressly include travel expenses for testifying at trial as a recoverable item and that the statute has been interpreted narrowly. In support, he cites *State v. Johnson*, 2002 WI App 166, 256 Wis. 2d 871, 649 N.W.2d 284, where the court denied restitution to a victim's stepfather for lost wages incurred while accompanying the victim to court appearances. Based on these arguments, the defendant maintains that the restitution statute "was not intended to cover the cost of travel of the victim's daughter, despite the purpose of the travel having been to testify at the trial of this matter." (R.142:3).

The court agrees with Judge Skwierawski that restitution for the flight is supported by § 973.20(5)(b), which allows the court to require a defendant to "[p]ay an amount equal to the income lost, and reasonable out-of-pocket expenses incurred, by the person against whom a crime considered at sentencing was committed resulting from the filing of charges or cooperating in the investigation and prosecution of the crime."

In this case, there is no dispute that the victim paid for her daughter's plane ticket so that she could testify at trial—an expense that would not have been incurred but for the defendant's criminal conduct. The court finds that these facts fall squarely within the scope of § 973.20(5)(b)—i.e. a "reasonable out-of-pocket expense[] incurred, by the person against whom a crime

considered at sentencing was committed resulting from the filing of charges or cooperating in the investigation and prosecution of the crime."

The court is unpersuaded by the defendant's reliance on *Bender* and *Johnson*. In *Bender*, the trial court ordered the defendant to pay half of the victim's travel expenses as a cost under WIS. STAT. § 973.06, rather than as restitution under § 973.20(5)(b). Those expenses were incurred by the Washburn County Sheriff's Department, not the victim of the defendant's crimes. The Court of Appeals agreed that the trial court had authority to order the payment under § 973.06 and therefore did not decide whether the amount was proper under the restitution statute as well. *Bender* at 341. The court did not hold that travel expenses paid directly by a victim cannot be awarded as restitution under § 973.20(5)(b).

In *Johnson*, the court held that the victim's stepfather was not entitled to restitution for his lost wages, either as a victim himself or as an "other person" who compensated a victim for a loss under § 973.20(5)(d). The court did not address restitution under § 973.20(5)(b). In any case, this court views accompanying a victim to court appearances as significantly different from testifying at trial, where the victim bore the cost.

Both *Bender* and *Johnson* are factually distinguishable from the present case. Here, it was the victim—rather than a third party—who paid for her daughter's travel so that the daughter could testify at trial. The court finds Judge Skwierawski's restitution order for the cost of the flight to be supported by the language of § 973.20(5)(b), and consistent with the principle that the restitution statute should be interpreted "broadly and liberally in order to allow victims to recover their losses as a result of a defendant's criminal conduct." *State v. Anderson*, 215 Wis. 2d 673, 682, 573 N.W.2d 872 (Ct. App. 1997).

THEREFORE, IT IS HEREBY ORDERED that the defendant's postconviction motion to amend the restitution order is **DENIED**.