APPENDIX-A

Rel: June 17, 2022

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SUPREME COURT OF ALABAMA

OCTOBER TERM, 2021-2022

1210172

Ex parte Hunter Halver Brown

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS

(In re: Hunter Halver Brown

v.

State of Alabama)

**(Covington Circuit Court, CC-20-303;
Court of Criminal Appeals, CR-20-0223)**

STEWART, Justice.

Hunter Halver Brown petitioned this Court for a writ of certiorari to review the Court of Criminal Appeals' decision in Brown v. State, [Ms. CR-20-0223, Oct. 8, 2021] ___ So. 3d ___ (Ala. Crim. App. 2021), which held that the Covington Circuit Court had properly denied Brown's motion to dismiss the indictment against him notwithstanding the State's purported failure to comply with the Uniform Mandatory Disposition of Detainers Act, § 15-9-80 et seq., Ala. Code 1975 ("the Act"), a codification of the federal Interstate Agreement on Detainers, 18 U.S.C. App. 2 ("the IAD"). The Act requires that, when a prisoner who is incarcerated in one state properly requests a trial on an untried indictment pending in another state, that prisoner must be brought to trial on that untried indictment within 180 days of his or her request. Ala. Code 1975, § 15-9-81, Art. III.(a). The Act, however, further provides that the running of the 180-day period "shall be tolled whenever and for as long as the prisoner is unable to stand trial ...." § 15-9-81, Art. VI.(a). We granted certiorari review to consider whether, as a matter of first impression, this Court's statewide suspension of jury trials in response to the COVID-19 pandemic tolled the Act's 180-day time limit for

bringing a prisoner to trial. We hold that it did, and we affirm the Court of Criminal Appeals' decision.

I. Facts

In December 2019, a Covington County grand jury indicted Brown for first-degree theft of property, a violation of § 13A-8-3, Ala. Code 1975; third-degree burglary, a violation of § 13A-7-7, Ala. Code 1975; and unlawful breaking and entering a vehicle, a violation of § 13A-8-11, Ala. Code 1975. Following the indictment, Covington County filed a detainer against Brown, who was at that time incarcerated in the Florida Department of Corrections on related charges.

On March 13, 2020, this Court entered an order suspending all in-person court proceedings due to the COVID-19 pandemic. That order was extended on April 2, 2020, and again on April 30, 2020. On May 13, 2020, this Court entered an order resuming in-person hearings but continuing the suspension of jury trials until September 14, 2020. All in all, jury trials were suspended from March 13, 2020, to September 14, 2020.

On April 30, 2020, Brown requested the final disposition of the untried Covington County indictment under § 15-9-81, Art. III.(a). Pursuant to that request, on August 6, 2020, Brown was transferred from

the custody of the Florida Department of Corrections to the custody of the Covington County Sheriff's Department, in whose custody he remained while awaiting trial. Later in August, Brown filed a not-guilty plea. In September 2020, Brown was scheduled to attend two guilty-plea hearings but ultimately declined to plead guilty before each scheduled hearing. On November 4, 2020, the State filed a motion to set Brown's case for trial, noting that the matter "should be set as soon as possible" considering the time limit set by the Act. The circuit court granted the State's motion but did not indicate when the case would be scheduled for a trial.

On November 30, 2020, Brown filed a motion to dismiss the indictment, alleging that the State had violated the Act because no trial had been conducted within 180 days of his serving the circuit court and the appropriate prosecuting official with his request for final disposition of the indictment. Brown contended that, because service of his request had been perfected on April 30, 2020, the 180-day period prescribed by the Act had expired on October 27, 2020. The circuit court denied Brown's motion to dismiss on December 1, 2020. The next day, Brown pleaded guilty to the charges against him but reserved his right to appeal the

circuit court's denial of his motion to dismiss. Brown then appealed to the Court of Criminal Appeals.

Citing § 15-9-81, Art. VI.(a), which provides that the 180-day period for bringing a prisoner to trial "shall be tolled whenever and for as long as the prisoner is unable to stand trial," the Court of Criminal Appeals affirmed the circuit court's denial of Brown's motion to dismiss after concluding (1) that Brown had been "unable to stand trial" during the statewide suspension of jury trials, (2) that the 180-day time limit therefore had been tolled under § 15-9-81, Art. VI.(a), until jury trials resumed on September 14, 2020, and (3) that the 180-day time limit consequently had not expired until March 15, 2021, well after Brown pleaded guilty.[1] See Brown, ___ So. 3d at ___. Brown petitioned this Court for a writ of certiorari, and we granted that petition with respect to the issue whether the State had violated the Act by failing to bring Brown to trial within 180 days of Brown's request for final disposition.

II. Analysis

[1]The 180th day following September 14, 2020, was Saturday, March 13, 2021; therefore, pursuant to Rule 6(a), Ala. R. Civ. P., the 180-day period was extended to Monday, March 15, 2021.

The determinative issue in this case is whether Brown was "unable to stand trial" under the Act during the unprecedented statewide suspension of jury trials prompted by the COVID-19 pandemic. According to Brown, the circuit court was required to dismiss the indictment against him with prejudice because he was not brought to trial within the 180-day time limit imposed by the Act. As noted above, the Court of Criminal Appeals concluded (1) that Brown had been "unable to stand trial" during the period when this Court had suspended jury trials due to the COVID-19 pandemic, (2) that the 180-day time limit thus had been tolled under § 15-9-81, Art. VI.(a), and (3) that therefore there had been no violation of the Act's time requirements in this case. Brown challenges the Court of Criminal Appeals' decision, arguing that, when determining whether a prisoner is "unable to stand trial" under §2, Art. VI.(a), of the IAD, federal courts have narrowly inquired into the prisoner's mental or physical inability to stand trial. He contends that those factors were not at issue in his case because he was in the physical custody of Covington County's Sheriff's Department awaiting trial and his mental competence was not at issue.

The IAD is an interstate compact establishing uniform procedures through which prisoners who are incarcerated in one jurisdiction may demand the speedy and final disposition of charges pending against them in another jurisdiction. See Alabama v. Bozeman, 533 U.S. 146, 148 (2001); Gillard v. State, 486 So. 2d 1323, 1325 (Ala. Crim. App. 1986). Alabama is a participating state, and the Alabama Legislature enacted the Act, which adopted and codified the IAD, in 1978. Gillard, 486 So. 2d at 1325. Because the IAD is a congressionally sanctioned interstate compact, it is a "federal law subject to federal construction." Carchman v. Nash, 473 U.S. 716, 719 (1985); see also Headrick v. State, 816 So. 2d 517, 519 (Ala. Crim. App. 2001) ("[The IAD] is a congressionally sanctioned interstate compact within the Compact Clause, U.S. Const., Art. I, § 10, cl. 3, and thus is a federal law generally subject to federal rather than state construction."). Thus, although the courts of participating states may interpret and apply the provisions of the IAD that have been adopted by those states, decisions of the United States Supreme Court that address the same issues are binding on this Court. The United States Supreme Court, however, has not addressed the meaning of the phrase "unable to stand trial" under the IAD. Brown

therefore urges this Court to adopt a narrow construction of that phrase and has cited federal authorities that limit the "unable to stand trial" language to the prisoner's mental or physical inability to stand trial. We note that there is a split in authority among the various federal courts of appeals concerning the interpretation of that phrase -- the construction proposed by Brown represents the decidedly minority view. Indeed, although the Fifth and Sixth Circuit Courts of Appeals have determined that "unable to stand trial" narrowly refers to a prisoner's physical or mental ability to stand trial, Birdwell v. Skeen, 983 F.2d 1332, 1340-41 (5th Cir. 1993); Stroble v. Anderson, 587 F.2d 830, 838 (6th Cir. 1978), at least six federal courts of appeals have adopted more expansive constructions of the phrase "unable to stand trial".[2] The majority of state

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[2]The Seventh and Eighth Circuit Courts of Appeals broadly interpret "unable to stand trial" to mean that the prisoner is "legally or administratively" unavailable. United States v. Roy, 830 F.2d 628, 635 (7th Cir. 1987); Young v. Mabry, 596 F.2d 339, 343 (8th Cir. 1979). The Second, Fourth, and Ninth Circuit Courts of Appeals apply provisions for tolling in the Speedy Trial Act, 18 U.S.C. § 3161. See United States v. Collins, 90 F.3d 1420, 1427 (9th Cir. 1996); United States v. Cephas, 937 F.2d 816, 819 (2d Cir. 1991); United States v. Odom, 674 F.2d 228, 231 (4th Cir. 1982). The D.C. Circuit Court of Appeals has read the IAD's "unable to stand trial" tolling provision "to include those periods of delays caused by the defendant's own actions." United States v. Ellerbe, 372 F.3d 462, 468 (D.C. Cir. 2004).

courts that have addressed the issue have similarly embraced a more expansive standard for determining a prisoner's inability to stand trial under the IAD. State v. Pair, 416 Md. 157, 175-76, 5 A.3d 1090, 1100-01 (2010) (citing Johnson v. Comm'r of Corr., 60 Conn. App. 1, 758 A.2d 442, 450-51 (2000); State v. Wood, 241 N.W.2d 8, 14 (Iowa 1976); State v. Binn, 208 N.J. Super. 443, 506 A.2d 67, (App. Div. 1986); and People v. Vrlaku, 134 A.D.2d 105, 523 N.Y.S.2d 143 (1988)).

This Court has yet to address the tolling provision in § 15-9-81, Art. VI.(a). We begin with the language of the statute. The Act provides in pertinent part:

> "Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within 180 days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information, or complaint; provided, that for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. ..."

§ 15-9-81, Art. III.(a) (emphasis added).

> "If ... an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article III ... hereof, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect."

§ 15-9-81, Art. V.(c) (emphasis added).

> "In determining the duration and expiration dates of the time periods provided in Articles III and IV of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter."

§ 15-9-81, Art. VI.(a) (emphasis added).

Section 15-9-81, Art. III.(a), requires that a prisoner who has properly invoked his or her rights under Article III "be brought to trial within 180 days" of the prisoner's request for final disposition being delivered to the trial court and the appropriate prosecuting official. Section 15-9-81, Art. V.(c), provides that, if an action on the indictment is not brought to trial within that prescribed period, the trial court "shall enter an order dismissing the [indictment] with prejudice, and any detainer based thereon shall cease to be of any force or effect." There are, however, exceptions to this requirement, and § 15-9-81, Art. VI.(a), provides that the 180-day period will be tolled "whenever and for as long

as the prisoner is unable to stand trial." (Emphasis added.) At issue in this case is whether the phrase "unable to stand trial" should be interpreted to apply when a global pandemic prompts the statewide suspension of jury trials, and thus prevents the State from bringing a criminal defendant to trial during that suspension period.

The Act does not define "unable to stand trial." As other courts have observed, however, the purpose behind the IAD's 180-day time limit is to "counter the perceived evil when prosecutorial delay or inattention fail to provide a defendant incarcerated in another jurisdiction an opportunity for prompt disposition of charges. Such delay potentially prejudices a prisoner's opportunities and even his potential for concurrent sentences." Pero v. Duffy, Civil Action No. 10-3107 (JAP), Dec. 16, 2013 (D.N.J. 2013) (not reported in Federal Supplement) (emphasis added); see also Morrison v. State, 280 Ga. 222, 224-25, 626 S.E.2d 500, 503 (2006) ("The sanction of dismissal with prejudice, as provided by the drafters of the IAD and adopted by the Georgia legislature, ... 'is a relatively severe sanction designed to compel prosecutorial compliance with the procedures set forth in the IAD.'" (quoting Camp v. United States, 587

F.2d 397, 399 n.4 (8th Cir.1978)) (emphasis added)); and United States v. Kurt, 945 F.2d 248, 254 (9th Cir. 1991).

Here, a plain reading of the statutory language in keeping with the purpose of the Act makes clear that Brown was "unable to stand trial" between April 30, 2020, and September 14, 2020, because -- due to circumstances not attributable to prosecutorial delay or negligence -- there were no jury trials being held in any Alabama state court during that time. This reading is consistent with the Act's purpose because Brown's inability to stand trial during that period was the result of forces entirely outside the prosecution's control. Moreover, as noted, a majority of federal and state courts addressing the issue have similarly interpreted the phrase "unable to stand trial" to extend beyond the context of a prisoner/criminal defendant who lacks the physical or mental capacity to stand trial. For example, in State v. Reeves, 268 A.3d 281 (Me. 2022), the Supreme Judicial Court of Maine -- in considering the exact issue presented in this case -- concluded that the "[IAD's] tolling provision applied when a defendant could not be brought to trial due to a suspension of trials caused by the COVID-19 pandemic." Id. at 289. That court explained:

> "The plain language of the tolling provision -- as well as logic -- support an interpretation that the deadline is tolled when jury trials cannot be held, even if that is not the fault of the defendant. See 34-A M.R.S. § 9606; United States v. Mason, 372 F. Supp. 651, 653 (N.D. Ohio 1973) (interpreting the tolling provision to apply when a defendant is standing trial in another jurisdiction because that is 'the only logical result, since if a person is standing trial in one state he cannot be expected to be standing trial in another state simultaneously'); see also State v. Pair, 416 Md. 157, 5 A.3d 1090, 1101 (2010) ('Like the majority of our sister federal and state courts, we construe the "unable to stand trial" language ... to include the time during which the sending jurisdiction is actively prosecuting the inmate on current and pending charges. This construction is consistent with a practical commonsense interpretation ....'). Nor is this interpretation barred by precedent or the [IAD's] legislative history."

Id. (footnote omitted).

We therefore conclude that this Court's orders suspending jury trials in response to the COVID-19 pandemic rendered Brown "unable to stand trial" -- tolling the running of the 180-day period from April 30, 2020, to September 14, 2020 -- and that the Court of Criminal Appeals therefore properly held that the 180-day time limit "did not expire until March 15, 2021, well after Brown pleaded guilty." Brown, ___ So. 3d at ___.

III. Conclusion

For the reasons stated above, we affirm the judgment of the Court of Criminal Appeals holding that, because the statewide suspension of jury trials tolled the Act's 180-day time limit for bringing a prisoner to trial, there was no violation of the Act's provisions in this case.

AFFIRMED.

Parker, C.J., and Bolin, Wise, and Sellers, JJ., concur.

APPENDIX-B

REL: October 8, 2021

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Alabama Court of Criminal Appeals

OCTOBER TERM, 2021-2022

CR-20-0223

Hunter Halver Brown

v.

State of Alabama

Appeal from Covington Circuit Court
(CC-20-303)

McCOOL, Judge.

Hunter Halver Brown appeals his guilty-plea convictions for first-degree theft of property, a violation of § 13A-8-3, Ala. Code 1975; third-

degree burglary, a violation of § 13A-7-7, Ala. Code 1975; and unlawful breaking and entering a vehicle, a violation of § 13A-8-11 -- all of which stemmed from Brown's theft of John Goolsby's personal property. In addition to sentencing Brown to terms of imprisonment, the circuit court ordered Brown to pay $40,805.35 in restitution to Goolsby and to pay $33,149.29 in restitution to Progressive Insurance Company ("Progressive"), which had paid Goolsby the proceeds of a policy that insured some of Goolsby's stolen property.

Facts and Procedural History

In December 2019, a Covington County grand jury indicted Brown for the offenses to which he ultimately pleaded guilty. The parties concede that, at that time, Brown was on probation in Florida and that "new charges were brought against [him] in Florida for crimes related to the instant offense[s]." (C. 153.) Specifically, some of Goolsby's stolen property was recovered in Florida. It appears that Brown's probation was revoked based on the new charges filed against him in Florida and that, while he was incarcerated in Florida, "Covington County filed detainer

warrants against him for the Covington County charges." (Brown's brief, p. 1.)

On April 30, 2020, in accordance with the Uniform Mandatory Disposition of Detainers Act ("UMDDA"), § 15-9-80 et seq., Ala. Code 1975, Brown served the Covington County district attorney with a request that he be extradited to Alabama for disposition of the charges filed against him in that county.[1] It appears that, on or around August 6, 2020, the Covington County Sheriff's Department received Brown into its custody, where Brown awaited the disposition of his charges. Later that month, Brown entered a plea of not guilty, even though, according to the State, "an agreed upon settlement had been reached."[2] (C. 154.) Consistent with the State's contention, it appears that Brown was scheduled to enter a guilty plea on September 2, 2020 (C. 166), but, according to the State, Brown "decided he wanted documentation of the proposed restitution amount, along with time to 'think about it,' " and

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[1]Brown's request is dated March 27, 2020, but it is undisputed that service was not perfected until April 30, 2020.

[2]According to the State, such practice is "the custom" in Covington County. (C. 154.)

Brown was provided with "restitution documentation" and was rescheduled to plead guilty on September 25, 2020. (C. 155.) However, according to the State, on the day he was scheduled to plead guilty, Brown indicated that he "was no longer interested in any plea." (C. 155.)

On November 4, 2020, the State filed a motion to set Brown's case for trial, noting that, "due to time constraints under the [UMDDA], this matter should be set as soon as possible." (C. 45.) The circuit court granted that motion but did not indicate when the case would be scheduled for trial. (C. 47.)

On November 30, 2020, Brown filed a motion to dismiss the indictment, alleging that the State had violated the UMDDA by failing to bring him to trial within 180 days of being served with his request for disposition of his charges. According to Brown, given that the State had been served with that request on April 30, 2020, the 180-day time limit had expired on October 27, 2020. In response, the State argued that the time for bringing Brown to trial had been tolled by the Alabama Supreme Court's orders suspending jury trials from March 13, 2020, to September 14, 2020, as a result of the COVID-19 pandemic. The State also argued

that Brown had engaged in "delay tactics" (C. 157) by wavering on his desire to plead guilty and by retaining new counsel five days before jury trials were scheduled to begin in Covington County on October 19, 2020.

On December 1, 2020, the circuit court held a hearing on Brown's motion to dismiss and, following the hearing, issued an order denying Brown's motion. That order states, in pertinent part:

> "[T]his Court finds that any delay in disposing of [Brown's] case prior to the expiration of the 180-day time limit was reasonable and, in fact, necessary. This Court finds particularly compelling that, at the time [Brown] made his request for disposition, the Alabama Supreme Court had already suspended in-person court proceedings due to COVID-19. Further, the Supreme Court's eventual expanded suspension of jury trials through September 14, 2020, left the parties unable to dispose of [Brown's] case at least until that time. This delay is not at all attributable to the State of Alabama and is not imputed to it in calculating [Brown's] time for disposition. The Court finds that, in light of COVID-19 and the resulting suspension of jury trials, and other interruptions to normal business caused by COVID-19, the time to bring [Brown] to trial was tolled, and has not yet expired."

(C. 223.) The following day, Brown pleaded guilty to the charges in the indictment but reserved his right to appeal the denial of his motion to dismiss.

Approximately one week later, the circuit court held a restitution hearing at which Goolsby testified that Progressive had paid him $33,149.29 in insurance proceeds for the loss of some of his stolen property. In addition, Goolsby testified that the value of the stolen property that was not covered by those proceeds totaled $40,805.35. The State also presented, over Brown's objection, detailed business records from Progressive that reflect how Progressive calculated the insurance proceeds it had paid to Goolsby. At the conclusion of the hearing, Brown argued that he should not be required to pay restitution to Progressive because, he said, the State had not provided "the proper evidentiary predicate for [the] values that [Progressive had] paid out." (R. 105.) In support of that claim, Brown noted that no representative from Progressive had testified at the hearing as to "how [Progressive] went about establishing their values" of Goolsby's property (R. 106), and Brown argued that the Progressive business records were inadmissible hearsay that could not be relied upon "to establish what Progressive is due to be paid back." (R. 107.) The circuit court did not address Brown's arguments at the hearing, and, following the hearing, the court issued a detailed

restitution order in which the court ordered Brown to pay Goolsby $40,805.35 in restitution and to pay Progressive $33,149.29 in restitution. Brown filed a timely notice of appeal.

Discussion

On appeal, Brown challenges both the circuit court's denial of his motion to dismiss the indictment and the circuit court's order of restitution to Progressive. We address each claim in turn.

I.

Brown argues that the trial court erred by denying his motion to dismiss the indictment because, he says, the State failed to comply with the UMDDA by failing to bring him to trial within 180 days of being served with his request for disposition of his charges.

The UMDDA states, in pertinent part:

> "Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within 180 days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of

> the place of his imprisonment and his request for a final disposition to be made of the indictment, information, or complaint; provided, that for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance."

§ 15-9-81, Article III.(a), Ala. Code 1975.

> "If ... an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article III ... hereof, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect."

§ 15-9-81, Article V.(c).

> "In determining the duration and expiration dates of the time periods provided in Articles III and IV of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter."

§ 15-9-81, Article VI.(a) (emphasis added).

As evidenced by the foregoing, the UMDDA's 180-day time limit in which a defendant must be brought to trial is not absolute. Rather, the 180-day time limit shall be tolled if the prisoner is "unable to stand trial." § 15-9-81, Article VI.(a). Here, the circuit court correctly noted that, by

order of the Alabama Supreme Court, jury trials in Alabama had been suspended at the time Brown filed his request for disposition of his charges and remained suspended until September 14, 2020. Thus, because Brown was "unable to stand trial" during that time, the 180-day time limit was tolled and did not begin to run until jury trials resumed on September 14, 2020, which means that the 180-day time limit did not expire until March 15, 2021, well after Brown pleaded guilty. Accordingly, Brown is not entitled to relief on this claim.

II.

Brown argues that the circuit court erred by ordering him to pay restitution to Progressive because, he says, there was not sufficient evidence to support such an order. The sole authority Brown cites in support of that claim is Henry v. State, 468 So. 2d 896 (Ala. Crim. App. 1984).

In Henry, Joseph Clyde Henry argued that the trial court erred by ordering him to pay $2,356 in restitution for property he had stolen. At trial, Henry's victim testified that the value of the stolen property was "just a little under $3,000," and, at the sentencing hearing, a

representative of the Auburn Police Department presented the trial court with a "Restitution Form" that "itemized the victim's losses and valued them at $2,356." Henry, 468 So. 2d at 901. Over Henry's objection, the trial court based its restitution order on the amount documented on the "Restitution Form." Id.

On appeal, this Court held that Henry was entitled to a hearing "at which legal evidence was introduced, in order to determine the precise amount of restitution due the victim." Henry, 468 So. 2d at 901. Thus, the Court remanded the case for the trial court to hold such a hearing, and the Court noted that, "[a]lthough the victim need not produce the actual sales receipts for the property stolen, there should be some evidence as to how the value was determined." Id. at 902 (emphasis added).

We find Henry to be distinguishable from this case. First, Henry does not expressly speak to the specific issue in this case, which is whether an order of restitution to an insurance company must be supported by anything more than evidence establishing the amount of insurance proceeds the company paid its insured. Furthermore, the issue in Henry was that the trial court had not been presented with any

evidence from the victim that demonstrated how the value of the victim's stolen property had been determined. In this case, however, the State presented detailed business records from Progressive which (1) indicate that Progressive had valued the individual items of Goolsby's property by determining their replacement costs and (2) indicate that the $33,149.29 Progressive paid Goolsby was equal to the sum of those replacement costs, subject to the policy limits. (C. 262-76.) Those records provided the circuit court with "some evidence as to how the value [of Goolsby's insured property] was determined," Henry, 468 So. 2d at 902, and, in turn provided the court with a sufficient evidentiary basis for determining the amount of restitution due to Progressive. See People v. Lavilla, 87 A.D.3d 1369, 1370 (N.Y. App. Div. 2011) (holding that "the amount of restitution [due to the victim's insurance company] was supported by the business records of the victim's insurance company"). Although Brown appears to suggest that the State was required to present some evidence as to how Progressive calculated the replacement costs, he cites no authority in support of that argument, and Henry does not go that far.

We also note that Brown has abandoned any claim that the Progressive business records were inadmissible hearsay because he has not pursued that claim on appeal. See Bryant v. State, 181 So. 3d 1087, 1138 (Ala. Crim. App. 2011) ("[A]llegations ... not expressly argued on ... appeal ... are deemed by us to be abandoned." (citations omitted)). We acknowledge that Brown cursorily implies that those records were inadmissible by arguing that "no admissible evidence was offered by the State regarding the manner in which [Progressive's] restitution amount was determined." (Brown's brief, p. 16.) However, Brown makes no attempt whatsoever to demonstrate that the records were hearsay or that they were inadmissible on any other grounds (id. at 16-17), and this Court will not make and address that argument for him. See Marshall v. State, 182 So. 3d 573, 620 (Ala. Crim. App. 2014) (noting that "[i]t is not the function of this Court to do a party's legal research or to make and address legal arguments for a party based on undelineated general propositions not supported by sufficient authority or argument" (citations omitted)).

Based on the foregoing, we find no abuse of discretion in the circuit court's restitution order. See King v. State, [Ms. CR-19-0249, March 12,

2021] ___ So. 3d ___, ___ (Ala. Crim. App. 2021) (noting that "[t]he particular amount of restitution is a matter which must of necessity be left almost totally to the discretion of the trial judge" and "should not be overturned except in cases of clear and flagrant abuse' " (citations omitted)).

Conclusion

For the foregoing reasons, the judgment of the circuit court is affirmed.

AFFIRMED.

Windom, P.J., and Kellum, Cole, and Minor, JJ., concur.

APPENDIX-C