

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

STATE OF ARIZONA, *Appellee*,

v.

JEFFREY ALVAREZ, *Appellant*.

No. 1 CA-CR 24-0426

FILED 06-03-2025

Appeal from the Superior Court in Maricopa County
No. CR2019-003621-001
The Honorable Suzanne Scheiner Marwil, Judge

AFFIRMED

COUNSEL

Maricopa County Public Defender's Office, Phoenix
By Mikel Steinfeld
Counsel for Appellant

Arizona Attorney General's Office, Phoenix
By Casey D. Ball
Counsel for Appellee

Arizona Voice for Crime Victims, Phoenix
By Colleen Clase, Thomas E. Lordan
Counsel for Crime Victim

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MEMORANDUM DECISION

Presiding Judge Brian Y. Furuya delivered the decision of the Court, in which Chief Judge David B. Gass and Vice Chief Judge Randall M. Howe joined.

F U R U Y A, Judge:

¶1 Jeffrey Alvarez (“Alvarez”) appeals the superior court’s order awarding his victim \$3,897.71 in restitution against him. For the reasons below, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 In 2019, Alvarez and a co-defendant were involved in a drug-related altercation, during which they fired weapons, killing two individuals and severely injuring a third. The court severed for trial purposes. A jury convicted Alvarez of two counts of first-degree murder, one count of attempted first-degree murder, one count of conspiracy to commit first-degree murder, and possession of dangerous drugs. We affirmed his convictions on direct appeal. *See State v. Alvarez*, 1 CA-CR 22-0273, 2023 WL 4531825 (Ariz. App. July 13, 2023) (mem. decision).

¶3 In May 2024, the mother of one victim submitted a restitution request for \$3,897.71, which included funeral expenses and travel costs associated with court proceedings. She included a restitution log with receipts in support of her claim. Alvarez demanded a jury trial to determine restitution, raising constitutional objections under the Sixth and Fourteenth Amendments to the United States Constitution and Article 2, Section 23 of the Arizona Constitution. At the restitution hearing, Alvarez did not contest the amount requested and raised only his constitutional challenge.

¶4 The court denied Alvarez’s request for jury trial, stating that it declined to depart from settled Arizona law “that restitution is neither a penalty nor subject to a statutory maximum, nor is it meant to be punishment.” It found the requested restitution reasonable and supported by the evidence and awarded the full amount. The court entered a criminal restitution order, to be paid jointly and severally between the two co-defendants. Alvarez timely appealed. We have jurisdiction pursuant to Arizona Revised Statutes (“A.R.S.”) §§ 12-120.21(A)(1), 13-4031 and 13-4033.

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DISCUSSION

¶5 “A court has discretion to set the amount of restitution according to the facts.” *State v. Scroggins*, 168 Ariz. 8, 9 (App. 1991). And we review a restitution order for an abuse of that discretion. *State v. Reed*, 252 Ariz. 328, 331 ¶ 13 (2022).

¶6 Alvarez argues the court abused its discretion by denying his request for a jury determination of restitution. He relies on *Apprendi v. New Jersey*, 530 U.S. 466 (2000), *Blakely v. Washington*, 542 U.S. 296 (2004), and *Southern Union Co. v. U.S.*, 567 U.S. 343 (2012), which collectively hold that any fact increasing a criminal penalty beyond the statutory maximum must be submitted to a jury and proved beyond a reasonable doubt. But Alvarez misapprehends a key predicate to this argument.

¶7 Restitution is neither punitive nor subject to the Sixth Amendment’s jury trial requirement. Arizona courts consistently recognize restitution as a compensatory remedy designed to restore victims, not punish offenders. See *Reed*, 252 Ariz. at 331 ¶ 11; *State v. Patel*, 251 Ariz. 131, 135 ¶ 14 (2021); *State v. Leon*, 240 Ariz. 492, 495 ¶ 10 (App. 2016). It is not an element of the offense, and—unlike the sentencing enhancements in *Apprendi* or *Blakely*—it does not increase a defendant’s punishment beyond the statutory range. See *Leon*, 240 Ariz. at 495–96 ¶ 12.

¶8 *Leon*’s reasoning is consistent with the Arizona Supreme Court’s ruling in *State v. Wilkinson*, 202 Ariz. 27, 28–29 ¶¶ 6–7 (2002). To that point, *Leon* quoted *Wilkinson* as follows: “the primary purposes of restitution are reparation to the victim and rehabilitation of the offender.” *Leon*, 240 Ariz. at 495 ¶ 10 (internal quotations omitted). Consistent with that “original conception of restitution,” *Wilkinson* noted restitution forces “the criminal to yield up to his victim the fruits of the crime. The crime is thereby made worthless to the criminal. This form of criminal restitution is sanctioned not only by history but also by its close relationship to the retributive and deterrent purposes of criminal punishment.” 202 Ariz. at 29 ¶ 9 (quotations and citations omitted). In short, criminal restitution bears a close relationship to retribution and deterrence, but it is not “criminal punishment.” *Id.*

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¶9 Though true the Supreme Court of the United States extended *Apprendi* to criminal fines in *Southern Union Co.*, it did not extend that reasoning to restitution. 567 U.S. at 360. Arizona courts continue to treat restitution as a distinct, non-punitive component of sentencing governed by different procedural rules. *State v. Quijada*, 246 Ariz. 356, 364 ¶ 24 (App. 2019) (“Restitution is part of the sentencing process, which is not surrounded by the panoply of protections afforded a defendant at trial.”). Alvarez’s reliance on these federal cases is therefore misplaced.

¶10 Alvarez’s citation to Article 2, Section 23 of the Arizona Constitution is likewise unavailing. That section does not guarantee a jury trial for restitution. To the contrary, we have held that this right does not extend to post-verdict sentencing procedures, like restitution. *See Leon*, 240 Ariz. at 495–96 ¶¶ 10–12.

¶11 Due process protections, however, apply. *Quijada*, 246 Ariz. at 364 ¶ 24. “Due process is satisfied when a court gives the defendant notice that it will award restitution proven by a preponderance of evidence in a hearing in which the defendant has the right to be present, be represented by counsel, and challenge any request for restitution.” *E.H. v. Slayton in & for Cnty. of Coconino*, 249 Ariz. 248, 253 ¶ 12 (2020) (citation omitted).

¶12 Here, Alvarez received each of these protections. He was represented by counsel, given notice of the hearing, and afforded an opportunity to object. At the hearing, defense counsel affirmatively stated that Alvarez did not contest the amount requested. Accordingly, any challenge to the amount of restitution on appeal is waived. *See Odom v. Farmers Ins. Co.*, 216 Ariz. 530, 535 ¶ 18 (App. 2007).

¶13 Finally, the record supports the restitution award. The victim’s mother submitted documentation of her losses, which the trial court reviewed. The award, consisting of funeral expenses and costs to attend court proceedings, was duly limited to the economic loss that flowed directly from Alvarez’s criminal conduct. *See* A.R.S. §§ 13-603(C), 13-105(16); *see also Wilkinson*, 202 Ariz. at 28–29 ¶¶ 6–7. Thus, the purpose and focus of the award was not to punish Alvarez for the crime he committed, but to make the victim’s mother whole. *See Leon*, 240 Ariz. at 495 ¶ 11.

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¶14 Reviewing the facts in the light most favorable to upholding the order, *State v. Leteve*, 237 Ariz. 516, 530 ¶ 58 (2015), we conclude that the trial court did not abuse its discretion.

CONCLUSION

¶15 We affirm.



MATTHEW J. MARTIN • Clerk of the Court
FILED: JR



Supreme Court

STATE OF ARIZONA

ANN A. SCOTT TIMMER
Chief Justice

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AARON C. NASH
Clerk of the Court

June 4, 2026

RE: STATE OF ARIZONA v JEFFREY ALVAREZ

Arizona Supreme Court No. CR-25-0199-PR

Court of Appeals, Division One No. 1 CA-CR 24-0426

Maricopa County Superior Court No. CR2019-003621-001

GREETINGS:

The following action was taken by the Arizona Supreme Court on June 2, 2026, regarding the above-referenced cause:

ORDERED: Petition for Review = DENIED.

Justice Montgomery did not participate in the determination of this matter.

Aaron C. Nash, Clerk

TO:

Alice Jones

Casey Ball

Thomas E Lordan

Colleen Clase

Mikel Steinfeld

David J Euchner

Michelle DeWaeltsche

Matthew J Martin

kc