

**Pennsylvania Commission on Sentencing
Caselaw Highlights (PA Reporter through May 23, 2008)**

Buck	Beard (DOC)	879 A.2d 157	7/19/2005	PA	Sentence	Fines/Costs	A prisoner has a property interest in his inmate account, and thus, the prisoner is entitled to due process with respect to any deprivation of money in the account. U.S.C.A. Const.Amend. 14.
Buck	Beard (DOC)	879 A.2d 157	7/19/2005	PA	Sentence	Fines/Costs	Defendant had notice and opportunity to be heard, as was required by due process, at sentencing hearing at which trial court imposed \$10,000 fine after being required by statute to consider defendant's ability to pay, and thus, defendant, as an inmate, was not entitled to additional judicial hearing to determine monthly deductions from his inmate account, before Department of Corrections (DOC), pursuant to its statutory authority to develop and follow guidelines for making deductions from inmate accounts to pay court costs, fines, and restitution, began making monthly deductions from defendant's inmate account. U.S.C.A. Const.Amend. 14; 18 Pa.C.S.A. § 1106(c)(2)(ii); 42 Pa.C.S.A. §§ 9726(d), 9728(b)(3, 5), 9758(b); Rules Crim.Proc., Rule 706(B), 42 Pa.C.S.A.
	Smith	757 A.2d 354	8/21/2000	PA	Sentence	Fines/Costs	Trial court did not have authority at sentencing for drug trafficking, after the commonwealth established its case, to alter the sentence and reduce the mandatory \$5,000 fine to \$565.
	Smothers	920 A.2d 922	3/9/2007	PA Cmwth	Sentence	Fines/Costs	An in rem forfeiture resulting from the Controlled Substances Forfeiture Act is punitive, and will be considered an excessive fine if it is grossly disproportional to the gravity of the offense. In deciding an excessive fine challenge upon an in rem forfeiture under the Controlled Substances Forfeiture Act, the trial court must compare the amount of the forfeiture to the gravity of the offense, which may be measured by comparing the penalty imposed to the maximum penalty available, determining whether the violation was isolated or part of a pattern of misbehavior and assessing the harm that resulted from the crime charged. U.S.C.A. Const.Amend. 8; Const. Art. 1, § 13; 42 Pa.C.S.A. § 6801 et seq.
	Williams	909 A.2d 419	7/31/2006	PA Cmwth	Sentence	Fines/Costs	Costs of prosecution must not be assessed against a criminal defendant except as authorized by law, and the Commonwealth bears the burden of justifying such costs by the preponderance of evidence. 16 P.S. § 1403.
Mason	PA DOC	886 A.2d 724	11/21/2005	PA Cmwth	Sentence	Fines/Costs	The Department of Correction's assessment adjudication that required inmate to pay \$77,723.25 from his inmate account for medical expenses incurred as a result of inmate almost overdosing on drugs was invalid, where the Department failed to comply with Administrative Agency Law (AAL) requirement that all testimony from an assessment hearing be stenographically recorded. 61 P.S. § 1015; 2 Pa.C.S.A. §§ 101, 504.

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Fordyce	Clerk of Courts, Forest County	869 A.2d 1049	2/7/2005	PA Cmwlth	Sentence	Fines/Costs	Costs incurred by sheriff to transport prison inmate did not fall within meaning of "costs of prosecution," as that term was referred to in section of the County Code stating that district attorney's expenses were part of the costs of prosecution to be paid by criminal defendant and in section of the Sentencing Code governing collection of restitution and costs. 16 P.S. § 1403; 42 Pa.C.S.A. § 9728(a, b).
Fordyce	Clerk of Courts, Forest County	869 A.2d 1049	2/7/2005	PA Cmwlth	Sentence	Fines/Costs	Fines and costs imposed by a sentencing court constitute penal sanctions. Statutory provisions governing the imposition of the costs of prosecution against a criminal defendant must be strictly construed. 16 P.S. § 1403; 42 Pa.C.S.A. § 9728(a, b).
Fordyce	Clerk of Courts, Forest County	869 A.2d 1049	2/7/2005	PA Cmwlth	Sentence	Fines/Costs	County did not have right to recoup from prison inmate the costs associated with sheriff's transportation of inmate from prison in connection with inmate's criminal prosecution; sheriff's transportation costs were not part of the "costs of prosecution" imposed by sentencing court pursuant to statute, and statutory provisions imposed sheriff's transportation costs upon the counties. 16 P.S. § 1403; 42 Pa.C.S.A. § 9728(a, b).
Neely	DOC	838 A.2d 16	11/26/2003	PA Cmwlth	Sentence	Fines/Costs	Requirements that prisoner pay a \$2.00 fee for medical visits, pay 10 cents a copy for legal appeals, and pay for personal hygiene supplies and supplemental food at commissary did not constitute cruel and unusual punishment; requirements did not deprive prisoner of life's minimal necessities, but consisted only of small comforts denied. U.S.C.A. Const.Amend. 8.
Neely	DOC	838 A.2d 16	11/26/2003	PA Cmwlth	Sentence	Fines/Costs	Under statute governing collection of criminal fines and penalties, Department of Corrections was authorized to make deductions from prisoner's inmate account to pay fine imposed by court. 42 Pa.C.S.A. § 9728(b)(5). Prisoner was not entitled to hearing on issue of his ability to pay before Department of Corrections began deducting funds from his inmate account to be applied to payment of his fine. 42 Pa.C.S.A. § 9772.
Boyd	DOC	831 A.2d 779	9/3/2003	PA Cmwlth	Sentence	Fines/Costs	Department of Corrections was authorized to make monetary deductions from inmate's personal account for the purposes of collecting restitution as well as fines and costs, which were imposed by the sentencing court, and was authorized to develop guidelines for making such deductions.
Ingram	Newman	830 A.2d 1099	8/27/2003	PA Cmwlth	Sentence	Fines/Costs	The statute authorizing the Department of Corrections (DOC) to collect fines, costs, and restitution from inmate prison accounts and to forward the funds to a designated representative of the sentencing county does not facially deny due process, because hearings are provided at appropriate times.

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	Lyons	830 A.2d 663	8/20/2003	PA Cmwlth	Sentence	Fines/Costs	Inmate was not entitled to reimbursement of money deducted from his prison account to pay for costs, fines and restitution associated with inmate's prior sentences, even though trial court ordered the deductions to stop; deductions were authorized by statute, statute which authorized the deductions was procedural in nature and could be applied retroactively, and the proper county agency received the deductions for payment of defendant's court-ordered obligations.
	Ralston	800 A.2d 1007	6/20/2002	PA Cmwlth	Sentence	Fines/Costs	Act authorizing DOC to collect fines, costs, and restitution from inmate prison accounts is procedural in nature and may be applied retroactively. Clerk of courts had authority to collect fines and costs from inmate's prison account after expiration of inmate's sentence and probationary period. 42/9728(b)(5).
Miller	PBPP	784 A.2d 246	9/28/2001	PA Cmwlth	Sentence	Fines/Costs	Where a technical violation of parole arises because of failure to pay for treatment, then the burden is on the parolee to demonstrate his inability to pay; upon proof of this inability, the burden then shifts to PBPP to prove that the parolee was somewhat at fault by failing to take sufficient bona fide efforts to acquire or save the necessary resources to pay for treatment.
Viglione	DOC	781 A.2d 248	7/10/2001	PA Cmwlth	Sentence	Fines/Costs	Inmate who appealed his misdemeanor convictions to the Superior Court was not entitled to stay of his sentences of fines and costs during pendency of appeal; rule requiring stay of all sentences during pendency of appeal applied only to summary cases, not to those cases involving misdemeanor charges, and rule applied when summary cases were taken for trial de novo in court of common pleas. Rule 86(B)(2).
	Allshouse	924 A.2d 1215	4/18/2007	PA Super	Sentence	Fines/Costs	Trial court was required to consider defendant's present and future solvency and whether fine would prevent defendant from paying restitution before imposing \$100 dollar fine. 42 Pa.C.S.A. § 9726(c).
	Allshouse	924 A.2d 1215	4/18/2007	PA Super	Sentence	Fines/Costs	Trial court erred in awarding costs of prosecution to Commonwealth for expenses incurred by district attorney, because no evidence was introduced demonstrating how these costs were calculated or for what they were incurred. 16 P.S. § 1403.
	Allshouse	924 A.2d 1215	4/18/2007	PA Super	Sentence	Fines/Costs	Amended version of statute governing collection of restitution, reparation, fees, costs, fines and penalties cannot constitutionally be applied retroactively, as such application would constitute an ex post facto law. 42 Pa.C.S.A. § 9728(g); U.S.C.A. Const. Art. 1, § 9, cl. 3, § 10, cl. 1.

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	Hernandez	917 A.2d 332	1/12/2007	PA Super	Sentence	Fines/Costs	Statute that allowed for expenses incurred by district attorney to be part of prosecution costs was constitutional, as procedural safeguards of rule of criminal procedure governing fines or costs ensured that indigent defendant would be afforded opportunity to prove his financial inability to pay costs of prosecution before being committed to prison. 16 P.S. § 1403; Rules Crim.Proc., Rule 706, 42 Pa.C.S.A.
	Smith	901 A.2d 1030	5/25/2006	PA Super	Sentence	Fines/Costs	Trial court had authority under statute governing expenses incurred by district attorney to order defendant to pay a pro rata share of "buy money" as cost of prosecuting him for numerous drug offenses, as state police expended funds in course of its investigation and apprehension of those persons suspected of drug activity, in accordance with general directives from district attorney, following a number of transactions, defendant and his cohorts eventually were apprehended, and the funds expended by police in order to effectuate their apprehension were not recovered. 16 P.S. § 1403.
In the Interest of:	R.D.R.	876 A.2d 1009	6/1/2005	PA Super	Sentence	Fines/Costs	The juvenile court may impose a fine upon a juvenile consistent with a criminal statute, but must do so under the auspices of the Juvenile Act rather than a criminal statute. 42 Pa.C.S.A. § 6352. After adjudicating a child delinquent, the trial court's authority for disposition is limited to six specific options listed in the Juvenile Act, the trial court's failure to comport with one or more of which renders disposition order void for lack of statutory authority. The plain language of Juvenile Act indicates that fines are discretionary, not mandatory; and thus, the juvenile court is without statutory authority to apply a mandatory fine prescribed in a criminal statute to a juvenile disposition.
	Wall	867 A.2d 578	1/20/2005	PA Super	Sentence	Fines/Costs	Statute providing additional assessment of \$200.00 against all persons convicted of driving under influence of alcohol (DUI) where the amount of alcohol by weight in the blood was equal to or greater than 0.16% constituted "punishment," and therefore, application of statute to defendant who committed DUI offense prior to statute's enactment violated ex post facto clause; although legislative purpose of statute was not punishment, the effect of statute on defendant was to increase defendant's sentence and, thus, punish him to a greater degree. U.S.C.A. Const. Art. 1, § 10; Const. Art. 1, § 17; 18 Pa.C.S.A. § 7508.1(c).
	Wall	867 A.2d 578	1/20/2005	PA Super	Sentence	Fines/Costs	A "fine" is a monetary amount equal to the severity of the crime and is used to ensure that a person does not receive a pecuniary gain from the offense. 18 Pa.C.S.A. § 1101. A fine serves as a remedial measure and as a deterrent.

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	Wall	867 A.2d 578	1/20/2005	PA Super	Sentence	Fines/Costs	Costs and restitution are akin to collateral consequences, and conversely, fines are considered direct consequences and, therefore, punishment under ex post facto clause. U.S.C.A. Const. Art. 1, § 10; Const. Art. 1, § 17.
	Lebar	860 A.2d 1105	10/20/2004	PA Super	Sentence	Fines/Costs	Although statute on imposition of costs against criminal defendant provided for imposition of mandatory \$60 minimum assessment, statute was not self-executing beyond mandatory \$60 assessment, and inmate could not be held responsible for additional costs in absence of sentence or valid court order imposing other costs, fees, or restitution. 18 Pa.C.S.A. § 11.1101(a)(1). Trial court may act outside 30-day window, during which it has authority to alter or modify criminal sentence, to correct patent or obvious mistake in sentence, or in case of fraud or another circumstance so grave or compelling as to constitute extraordinary cause. 42 Pa.C.S.A. § 5505.
	Fleming	804 A.2d 669	7/23/2002	PA Super	Sentence	Fines/Costs	Trial court could not sua sponte enter enforcement orders directing DOC to garnish inmate's account to satisfy previously imposed obligations for fines, costs, and restitution without a hearing or even an application for such a ruling by the court. 42/9728(b)(5).
	Baker	782 A.2d 584	8/17/2001	PA Super	Sentence	Fines/Costs	Deductions of restitution and costs were properly made from prisoner's inmate account under collection statute, although prisoner urged that statute applied only to prisoners transferred to state institution after statute was enacted; statute contained no such limitation. 42/9728.
	Tome	737 A.2d 1239	7/30/1999	PA Super	Sentence	Fines/Costs	Defendant convicted of selling malt or brewed beverages for consumption without a license could be fined for the 2,440 cans of beer found on his premises, and not only the 72 bottles. The language of the Liquor Code provisions intended to apply to both cans and bottles.
	Heggenstaller	699 A.2d 767	8/8/1997	PA Super	Sentence	Fines/Costs	When ordinance imposing fine is written so as to have punitive and/or confiscatory effect, without relation to individual's ability to pay and severity of violation, it does not meet standard required by state constitutional provision prohibiting excessive
	Larsen	682 A.2d 783	8/14/1996	PA Super	Sentence	Fines/Costs	Common law obligates defendant to answer for the costs of prosecution with conviction where Investigative Grand Jury Act [IGJA] is silent regarding payment for trial and conviction.
	Garris	672 A.2d 343	2/27/1996	PA Super	Sentence	Fines/Costs	Because defendant's failure to correct a sewage violation [failure to obtain a sewage permit] constituted a continuing offense, trial court erred in fining defendant for each day he remained in violation.
	Ciptak	657 A.2d 1296	5/5/1995	PA Super	Sentence	Fines/Costs	Defendant's liability for cost of prosecution is not part of punishment for the offense; it is not a sentence to pay something additional to any penalty imposed; as quantifiable sum/absolute liability it differs from fines & other sentencing alternatives.

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	Gaddis	639 A.2d 462	3/22/1994	PA Super	Sentence	Fines/Costs	Imposition of fine, even that ordered as a deterrence, must be preceded by determination of defendant's ability to pay. 42 Pa.C.S.9728(g) does not provide for imposition of costs of prosecution itself.
In re:	M. W.	725 A.2d 729	2/25/1999	PA	Sentence	Restitution	Juvenile Court had statutory authority to order juvenile, adjudicated delinquent upon his admission to acts constituting offense of criminal trespass, to pay restitution.
	Runion	622 A.2d 617	7/18/1995	PA	Sentence	Restitution	A defendant convicted of striking woman improperly ordered to pay restitution to DPW which had paid medical expenses; definition of victim [18 Pa.C.S.1106] excludes Commonwealth agency. Victim is person who suffered injury as direct result of the crime.
Sweatt	DOC	769 A.2d 574	3/21/2001	PA Cmwth	Sentence	Restitution	Act that authorized DOC to make monetary deductions from inmate account for the purpose of collecting restitution or court-ordered obligations was not penal in nature, and thus could be applied retroactively to defendant convicted before act's effective date without violating ex post facto clause. (42/9728b5)
	Pleger	934 A.2d 715	10/9/2007	PA Super	Sentence	Restitution	Whether imposed as a direct sentence or as a condition thereof, the primary purpose of restitution is the rehabilitation of the offender. Restitution is an aspect of sentencing imposed by a court on an offender in order to facilitate the administration of criminal justice. Although restitution does not seek, by its essential nature, the compensation of the victim, the dollar value of the injury suffered by the victim as a result of the crime assists the court in calculating the appropriate amount of restitution. 18 Pa.C.S.A. § 1106.
	Pleger	934 A.2d 715	10/9/2007	PA Super	Sentence	Restitution	A restitution award must not exceed the victim's losses. A court must ensure that the record contains the factual basis for the appropriate amount of restitution. 18 Pa.C.S.A. § 1106.
	Pleger	934 A.2d 715	10/9/2007	PA Super	Sentence	Restitution	An order of restitution does not create a creditor-debtor relationship between victim and offender. Restitution is simply not an award of damages but, rather, a sentence. Unlike a civil judgment, victim has no standing to enforce a restitution order; instead, restitution can only be enforced by criminal court. Unlike a civil award, restitution cannot include amounts for pain and suffering.
	Allshouse	924 A.2d 1215	4/18/2007	PA Super	Sentence	Restitution	Award of restitution to crime victims compensation fund was required to be vacated; statutes under which defendant was convicted did not contain restitution provisions, and record contained no indication Commonwealth recommended any amount for restitution. 18 Pa.C.S.A. § 1106.

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	Harriott	919 A.2d 234	2/8/2007	PA Super	Sentence	Restitution	Restitution order to pay insurance company that paid for blood tests performed on officers after defendant spit on officers was authorized as intermediate punishment as part of driving under the influence (DUI) sentence; while act of spitting was not same as drunk driving, it was part of defendant's overall conduct which stemmed from DUI as she was at hospital for DUI blood alcohol testing, she spit on officers who arrested her, and so they needed precautionary blood testing, restitution served purposes of teaching defendant egregiousness of her conduct and deterred her from re-offending, and restitution provided reimbursement to insurance company, which was victim for restitution purposes. 18 Pa.C.S.A. § 1106.
	Harriott	919 A.2d 234	2/8/2007	PA Super	Sentence	Restitution	Restitution is proper only if there is a direct causal connection between the crime and the loss. 18 Pa.C.S.A. § 1106. When restitution is a condition of probation, rather than a direct sentence under the Crimes Code, there need not be a direct nexus between offense and loss; while restitution cannot be indiscriminate, an indirect connection between the criminal activity and the loss is sufficient. 42 Pa.C.S.A. § 9754(c)(8). Even without direct causation, a court may properly impose restitution as a probationary condition if the court is satisfied that the restitution is designed to rehabilitate the defendant and to make some measure of reimbursement to the victim. 18 Pa.C.S.A. § 1106.
	Harriott	919 A.2d 234	2/8/2007	PA Super	Sentence	Restitution	Requirement to pay restitution for police officers' blood tests, after defendant spit on officers, was not authorized as part of defendant's driving under the influence (DUI) sentence; while driving, defendant did not wreck into another vehicle, collide with property, strike pedestrian or injure anyone, restitution had nothing to do with any such matters, and defendant's drunk driving did not directly cause officers to require precautionary blood testing. 18 Pa.C.S.A. § 1106(a).
	Oree	911 A.2d 169	11/3/2006	PA Super	Sentence	Restitution	Defendant's challenge to trial court's authority to impose restitution in amount in excess of that which jury determined defendant was criminally responsible for and under circumstances which would take defendant entire lifetime to pay back was challenge to legality of sentence, and thus, could not be waived, where defendant failed to raise sentencing issues during sentencing hearing, in post-sentence motion, or during post-sentence motion hearing.

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	Oree	911 A.2d 169	11/3/2006	PA Super	Sentence	Restitution	Award of \$1,229,229.09 in restitution was not constitutionally disproportionate to simple assault and recklessly endangering another person offenses and victim's personal injuries resulting directly from crimes; witness testimony established that, after victim lost consciousness and was laying face-down on ground, defendant continued to kick, slap, and hit victim's head with beer can, defendant also picked up victim's head by the hair and slammed it onto concrete sidewalk, and evidence established that victim had organic brain syndrome due to his head trauma and would require care in nursing home indefinitely. U.S.C.A. Const.Amend. 8; 18 Pa.C.S.A. §§ 1106(a), (c)(1)(i), (c)(2)(i), (h).
	Rush	909 A.2d 805	9/19/2006	PA Super	Sentence	Restitution	Defendant's due process rights were not violated by trial court's failure to conduct an evidentiary hearing prior to imposing restitution following guilty plea; defendant entered into a negotiated plea arrangement whereby he was made fully aware, prior to entering the plea, that the court would impose a specific amount of restitution upon acceptance of the plea, and whereby he agreed to accept restitution set in codefendant's case for the same crimes. U.S.C.A. Const.Amend. 14.
	Rush	909 A.2d 805	9/19/2006	PA Super	Sentence	Restitution	Amount of restitution ordered by trial court was supported by the record and was neither speculative nor excessive; prior to entry of defendant's guilty plea, the trial court judge clearly explained that the victim's testimony, as to the value of the stolen property, supported restitution in the amount at issue, and in accepting the victim's testimony as credible, the court determined, and defendant confirmed, that the loss suffered by the victim was attributable to conduct on the part of defendant and codefendant. 18 Pa.C.S.A. § 1106.
	Langston	904 A.2d 917	7/17/2006	PA Super	Sentence	Restitution	Baby who was born to mother rendered comatose by defendant's reckless driving, and whose father was killed in the accident, was not a "direct victim" of defendant's crime as would entitle the baby to restitution under statute governing mandatory restitution for injuries to persons, which required that a victim's loss be caused directly by a defendant's criminal conduct rather than a loss consequential to such conduct; although baby was in utero at the time of the accident, there was no evidence presented that he suffered any physical injuries as a result of defendant's conduct. 18 Pa.C.S.A. § 1106.
	Langston	904 A.2d 917	7/17/2006	PA Super	Sentence	Restitution	The mandatory payment of restitution pursuant to statute governing restitution for injuries to persons is limited to the direct victim and not to third parties, including family members, who shoulder the burden of the victim's losses. 18 Pa.C.S.A. § 1106.

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In the Interest of:	J.E.D., Jr.	879 A.2d 288	7/7/2005	PA Super	Sentence	Restitution	Order that juvenile adjudicated delinquent for simple assault pay \$19,377.95 in restitution was supported by findings that, despite juvenile's present inability to pay, juvenile was able-bodied 17-year-old who could work and pay it off over period of years, and that there was direct causal link between assault and severe head injuries suffered by victim. 42 Pa.C.S.A. §§ 6352(a)(5), 9728.
	Mariani	869 A.2d 484	1/21/2005	PA Super	Sentence	Restitution	Primary purpose of restitution is rehabilitation of the offender by impressing upon him that his criminal conduct caused the victim's loss or personal injury and that it is his responsibility to repair the loss or injury as far as possible, and thus, recompense to the victim is secondary, as a sentence imposing restitution is not an award of damages. Restitution is not damages, as the objectives are different, and because this is so, the amounts, although related, need not be coterminous.
	Mariani	869 A.2d 484	1/21/2005	PA Super	Sentence	Restitution	It was not the order entered after the delayed restitution proceeding which rendered the restitution sentence illegal, but, rather, the order "restitution to be determined" which, entered from the bench at sentencing, failed to meet the criteria of statute providing that, at time of sentencing, the court shall specify the amount and method of restitution, and because the sentence was an integrated one intended from the outset to consist of both confinement and monetary elements, and because both were not imposed contemporaneously, the illegality of one part invalidated the whole. 18 Pa.C.S.A. § 1106(c)(2).
	Redman	864 A.2d 566	12/17/2004	PA Super	Sentence	Restitution	Trial court was expressly authorized by statute under which defendant was convicted for writing a bad check to award victim restitution in amount of dishonored check, which was \$800, even absent recommendation by Commonwealth. 18 Pa.C.S.A. § 4105(e). An award of restitution should be encouraged as both an aid in assisting the defendant's rehabilitation and as an aid in compensating the victim.
	Boone	862 A.2d 639	11/19/2004	PA Super	Sentence	Restitution	An order of restitution is a sentence, and thus, the amount awarded is within the sound discretion of the trial court and must be supported by the record. Restitution may be imposed only for those crimes to property or person where the victim suffered a loss that flows from the conduct that forms the basis of the crime for which the defendant is convicted. For principles underlying the restitution statute to be implemented, victims of fraudulent real estate transactions had to be made whole, and to accomplish this required returning the property to the owners of record immediately preceding the fraudulent transfer, and such a transfer could be achieved without benefit of title owner's testimony as it simply restored the arrangement disrupted by defendants. 18 Pa.C.S.A. § 1106.

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	Wozniakowski	860 A.2d 539	9/27/2004	PA Super	Sentence	Restitution	Restitution statute providing that at the time of sentencing the court shall specify the amount and method of restitution precluded sentencing court from leaving amount of restitution open for determination at a later date, and thus open-ended order of restitution was illegal ab initio. 18 Pa.C.S.A. § 1106(c)(2). For the purposes of restitution, parties are defendant and the Commonwealth, and it is up to the judge to determine what constitutes "full restitution." 18 Pa.C.S.A. § 1106(c).
	Wozniakowski	860 A.2d 539	9/27/2004	PA Super	Sentence	Restitution	Trial court's amendment of restitution order almost one year after assault, to include compensation victim sought primarily for future dental work, was unduly prejudicial in violation of defendant's right to due process; order of restitution was included in six-month sentence that had already had been served in its entirety at the time Commonwealth filed its petition to amend, information regarding victim's anticipated dental work reasonably could have been determined prior to sentencing, or within 30 days thereafter, and due process considerations included need for finality. U.S.C.A. Const.Amend. 14; 18 Pa.C.S.A. § 1106(c)(3).
	Ortiz	854 A.2d 1280	7/22/2004	PA Super	Sentence	Restitution	Amount of restitution ordered in prosecution for car theft could not be increased, seven and one half months after negotiated plea was entered, to include \$1,188.21 that was estimated cost of repairing damage done to victim's car, where defendant entered into negotiated guilty plea in reliance on plea agreement that set restitution at \$159.00, additional amount for repair was known by Commonwealth within 30 days of sentencing while trial court still had jurisdiction, and, because Commonwealth could have known full amount of restitution when it entered into plea agreement if Commonwealth had exercised due diligence, and there was no showing of change in circumstances, Commonwealth was bound by agreement and could not seek increased restitution. 18 Pa.C.S.A. § 1106(c).

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	Ortiz	854 A.2d 1280	7/22/2004	PA Super	Sentence	Restitution	Although it is mandatory under statute on restitution in criminal cases to award full restitution, it is still necessary that amount of "full restitution" be determined under adversarial system with considerations of due process. Provisions of statute on restitution in criminal cases require Commonwealth to exercise due diligence to ascertain amount of restitution prior to sentencing, and it is only if district attorney has solicited information from victim, and received no response from victim, that district attorney can base recommendation of amount of restitution on other information, but such non-responsiveness of victim must be placed on record so defendant is aware that Commonwealth may come back later to seek additional restitution. U.S.C.A. Const.Amend. 14; 18 Pa.C.S.A. § 1106(c).
	Keenan	853 A.2d 381	6/18/2004	PA Super	Sentence	Restitution	Trial court's order of restitution to hospital that provided medical services to assault victim was permissible, even though hospital was not a "victim" within meaning of restitution statute, where order carried with it a provision that in the event that the Commission on Crime and Delinquency pays any or all of the amount owed to the hospital, then the restitution payable to the hospital shall be reduced by the amount received from the Victims Compensation Program and restitution shall then be payable by defendant to the Victims Compensation Program in an amount equal to the amount paid by the Victims Compensation Program to the hospital; courts are permitted to order restitution payments to the Victims Compensation Program. 18 Pa.C.S.A. § 1106(a, c, h); 42 Pa.C.S.A. § 9721(c).
	Keenan	853 A.2d 381	6/18/2004	PA Super	Sentence	Restitution	Restitution is not meant to be a reimbursement system to third parties but rather a compensation system to "victims" as that term is defined by the statute. Physician who provided medical services to assault victim was not a "victim" within meaning of restitution statute, and thus, trial court erred in ordering the payment of restitution directly to physician, rather than the victim. 18 Pa.C.S.A. § 1106(a); 42 Pa.C.S.A. § 9721(c).
	Deshong	850 A.2d 712	5/13/2004	PA Super	Sentence	Restitution	Regardless of whether the restitution provision of a sentence is a condition of probation or a direct sentence, the amount and manner of restitution must be determined by the sentencing court at the time of sentencing, rather than being delegated for determination by an agency. 18 Pa.C.S.A. § 1106(c)(2); 42 Pa.C.S.A. § 9754(b).

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	Deshong	850 A.2d 712	5/13/2004	PA Super	Sentence	Restitution	Appellate court's determination that restitution order was illegal, because trial court improperly delegated to agency the task of determining manner and amount of probation, altered the sentencing scheme of trial court, and thus, the proper remedy was to vacate the entire sentence and remand for resentencing; sentencing guidelines called for minimum of three months of incarceration but trial court instead imposed 48 months of probation plus restitution and costs, restitution would likely be a significant amount given the insurance fraud crime involved, and appellate court could not be confident that trial court would have imposed probation without restitution. 18 Pa.C.S.A. § 1106(c)(2); 42 Pa.C.S.A. § 9754(b).
	Deshong	850 A.2d 712	5/13/2004	PA Super	Sentence	Restitution	If the harm the restitution would address was the indirect result of the insurance fraud, then restitution could be imposed only as a condition of probation, not as a direct sentence. 18 Pa.C.S.A. § 1106(c)(2); 42 Pa.C.S.A. § 9754(b).
	Popow	844 A.2d 13	2/18/2004	PA Super	Sentence	Restitution	Sentencing court improperly ordered restitution, upon defendant's conviction of simple assault based upon threatening conduct and placing others in fear, where victim's injuries were indirect result of defendant's illegal actions and restitution was imposed as part of defendant's sentence rather than as condition of probation. 18 Pa.C.S.A. § 1106(a); 42 Pa.C.S.A. § 9754.
	Mitsdarfer	837 A.2d 1203	11/26/2003	PA Super	Sentence	Restitution	Postconviction relief sought by defendant, reduction in amount of restitution he was ordered to pay victim for his conviction by no contest plea to unauthorized use of an automobile, could only be obtained through trial court, pursuant to statute governing restitution for injuries to person or property; and since statute afforded trial court authority to amend or alter restitution order at any time, defendant was not time-barred from filing appropriate motion with trial court. 18 Pa.C.S.A. § 1106(c)(3).
	Kelly	836 A.2d 931	11/7/2003	PA Super	Sentence	Restitution	It is improper to order restitution for damage from a crime for which a defendant is not convicted. Where restitution is imposed as a condition of probation, the required nexus between the crime and the victim's damages is relaxed.
	Kelly	836 A.2d 931	11/7/2003	PA Super	Sentence	Restitution	Statutory requirement that direct causal connection exist between defendant's criminal activity and victim's damages as basis for ordering restitution as part of sentence did not prohibit trial court from ordering that defendant convicted of receiving stolen property pay restitution in amount of repairs to victim's truck from which items were stolen as condition of probation, regardless that defendant was not convicted of burglarizing truck.

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	Boyd	835 A.2d 812	11/3/2003	PA Super	Sentence	Restitution	Commonwealth did not qualify as a victim under restitution statute, and therefore, defendant's counsel was ineffective in failing to object to imposition of restitution as part of defendant's sentence on such grounds.
	Leber	802 A.2d 648	6/25/2002	PA Super	Sentence	Restitution	Restitution in a criminal case is mandatory and the defendant's ability to pay is irrelevant unless and until he defaults on the restitution order.
	Dinoia	801 A.2d 1254	6/19/2002	PA Super	Sentence	Restitution	Sentencing court may not leave the amount of restitution open for determination at a later date, given that restitution statute provides that at the time of sentencing the court shall specify the amount and method of restitution. 18/1106.
	Baker	782 A.2d 584	8/17/2001	PA Super	Sentence	Restitution	Deductions of restitution and costs were properly made from prisoner's inmate account under collection statute, although prisoner urged that statute applied only to prisoners transferred to state institution after statute was enacted; statute contained no such limitation. 42/9728.
	Opperman	780 A.2d 714	7/20/2001	PA Super	Sentence	Restitution	Insurance company that made payments pursuant to insurance contracts held by mother of drunk driving victim for damages she and her husband sustained as a result of victim's wrongful death, but did not provide payments directly to victim, was not itself a 'victim' under Crimes Code entitled to restitution from defendant convicted of homicide by vehicle while DUI.
	James	771 A.2d 33	3/20/2001	PA Super	Sentence	Restitution	An order of restitution is enforceable until paid. Defendant, who had completed his sentence of imprisonment and been paroled, and whose probation had expired, was not in custody for the purposes of his application for post-conviction relief, even though he was required to continue making restitution payments and provide information to the Adult Probation/Parole Department concerning his income every three months. (42/9543a1)
	Harbst	763 A.2d 953	11/30/2000	PA Super	Sentence	Restitution	Where petitioner, who had been convicted of DUI, was ordered to make restitution to victim in addition to participating in alcohol treatment program and paying all appropriate fees, costs and fines, the payment of restitution was a requirement of the court-ordered treatment program that had to be satisfied before the petitioner's motor vehicle operating privileges could be restored.
	Pozza	750 A.2d 889	4/12/2000	PA Super	Sentence	Restitution	Insurance company was a 'victim' of an insured's fraud and theft by deception and was entitled to restitution despite settlement agreement dismissing with prejudice the insurer's civil suit.
	Luper	745 A.2d 1248	1/18/2000	PA Super	Sentence	Restitution	Trial court did not have the authority to modify restitution order, though the court expressly noted it reserved the right to modify sentence for conviction of theft by deception, where the maximum term of imprisonment to which defendant could have been sentenced expired.

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	Eggers	742 A.2d 174	11/23/1999	PA Super	Sentence	Restitution	Defendant's probation for welfare fraud could not be revoked for failure to complete payment of restitution, absent finding that defendant had resources to pay and willfully failed to make payments. 62 P.S. 481.
	Dohner	725 A.2d 822	2/18/1999	PA Super	Sentence	Restitution	Because restitution is a sentence, amount ordered must be supported by the record; it may not be speculative or excessive. Commonwealth presentation of evidence to support \$2000 loss sufficient to order \$2000 restitution, even though jury found amount stolen was less than \$50.
	Wright	722 A.2d 157	11/20/1998	PA Super	Sentence	Restitution	Trial court's order requiring defendant, who was convicted of criminal mischief and agricultural vandalism, to pay restitution in the amount of \$20,745.82 was supported by the record, despite the fact that the jury had determined the loss to be more than
	Rohrer	719 A.2d 1078	11/9/1998	PA Super	Sentence	Restitution	Restitution statute (18/1106[a]) provides for discretionary imposition of restitution. However, once ordered, this discretion ceases (18/1106[c]) and court is required to fully compensate victim. SUBSEQUENT LEGISLATION [ACT 1998-121, EFF.12-3-98] REMOVES
	Shotwell	717 A.2d 1039	9/1/1998	PA Super	Sentence	Restitution	Order of restitution, payable pursuant to PA Crimes Code, is not subject to discharge under Bankruptcy Code; restitution order entered subsequent to bankruptcy discharges separate and distinct from any discharge involving a civil debt.
	Colon	708 A.2d 1279	5/3/1998	PA Super	Sentence	Restitution	Victim's insurance company was itself a 'victim' entitled to restitution under mandatory restitution section of sentencing code. Sentencing court is not required to consider evidence of defendant's ability to pay; such ability need only be considered upo
	Smith	699 A.2d 1303	8/26/1997	PA Super	Sentence	Restitution	Trial court properly ordered defendant who pled nolo contendere to charge of resisting arrest to pay restitution to city, in accordance with statutory amendment, to reimburse city for amounts it paid to victim police officer for losses and injuries he exp
	Kline	695 A.2d 872	6/19/1997	PA Super	Sentence	Restitution	Statutory restitution to crime victims is not 'punishment' for purposes of ex post facto clause, and thus, application of amendments to restitution statute, which allowed for greater awards of restitution, to defendant convicted of crime committed before
	Figueroa	691 A.2d 487	3/18/1997	PA Super	Sentence	Restitution	Because the DOC does not constitute a "victim" under 18 PaCS 1106, the trial court erred in ordering defendants to pay restitution to the DOC for medical care it provided to the individual fatally injured while in prison.
	Yanoff	690 A.2d 260	2/12/1997	PA Super	Sentence	Restitution	Court order to pay funeral expenses incurred by victim's family was appropriate, but order to pay Bureau of Laboratory and Communication Services for expenses incurred relating to the case was improper; govt agencies may not be considered a victim.

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	Layhue	687 A.2d 382	12/31/1996	PA Super	Sentence	Restitution	Defendant pleading nolo contendere to a conspiracy charge of arson with intent to defraud insurance company is required to pay restitution to insurance company; such offense places insurance company in posture of being intended victim of crime.
	Moran	675 A.2d 1269	5/2/1996	PA Super	Sentence	Restitution	Where expenses were incurred in connection with the prosecution of a charge for which defendant was acquitted, court exceeded discretion in requiring restitution to be paid to DA's Office by defendant.
	Genovese	675 A.2d 331	4/18/1996	PA Super	Sentence	Restitution	A sentence of restitution was proper where defendant, while carelessly driving on private property, backed his car into the front fender of another vehicle, causing damages; restitution may be ordered for any offense before a DJ, including vehicle code.
	Nicely	638 A.2d 213	3/14/1994	PA	Sentence	Supervision Fees	Supervision fee, like imposition of costs in a criminal case, is not part of the sentence, but rather is incident to the judgment. The supervision fee is administrative in nature and not intended to be punitive.
	\$425.00 U.S. Currency	722 A.2d 1163	1/13/1999	PA Cmwlth	Constitutionality	Forfeiture	Due process clause requires that the deprivation of life, liberty or property by adjudication be preceded by notice and opportunity for hearing appropriate to nature of case.