

STATE OF MAINE

v.

SHANNON L. EGAN

Submitted on Briefs November 28, 2012

Decided December 4, 2012

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, MEAD, GORMAN, and
JABAR, JJ.

MEMORANDUM OF DECISION

Shannon L. Egan appeals from a sentence imposed by the trial court (*Fritzsche, J.*) upon a judgment of conviction of one count of theft by unauthorized taking or transfer (Class D), 17-A M.R.S. § 353(1)(B)(5) (2011), entered following her no contest plea.

Contrary to Egan’s contention, the court did not impose an illegal sentence upon her when it ordered her to pay \$1000 in restitution over the course of approximately one year. Notwithstanding her reduced financial circumstances at the time of the sentencing hearing, Egan has not demonstrated on appeal that she had proved her present or future incapacity to pay the ordered restitution as a matter of law. *See* 17-A M.R.S. § 1325(1)(C), (2)(D), (4) (2011); *State v. Pease*, 2007 ME 155, ¶ 10, 940 A.2d 189; *State v. Berube*, 1997 ME 165, ¶¶ 17-20, 698 A.2d 509; *see also State v. Schmidt*, 2010 ME 8, ¶ 5, 988 A.2d 975 (stating the standard of review in a direct appeal from sentence).

Additionally, contrary to Egan’s contention, the court did not misinterpret or misapply the “collateral source” provision of 17-A M.R.S. §§ 1322(1) and 1325(2)(C) (2011). The list of “collateral sources” provided at 17-A M.R.S.

§ 1322(1) is an exclusive list and does not authorize the court to reduce the amount of restitution otherwise ordered by the value of Egan's property that, Egan asserts, had been or remains in the victims' possession. *See State v. Jones*, 2012 ME 88, ¶ 6, 46 A.3d 1125 (stating that this Court reviews a trial court's interpretation of a statute de novo, seeking to effectuate the Legislature's intent as gleaned from the plain language of the statute).

The entry is:

Judgment affirmed.

On the briefs:

James S. Hewes, Esq., South Portland, for appellant Shannon Egan

Kathryn Slattery, District Attorney, and Anne Marie Pazar, Esq., Contract Brief Writer, Prosecutorial District #1, Alfred, for appellee State of Maine