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NOT TO BE PUBLISHED

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**Commonwealth of Kentucky**

**Court of Appeals**

NO. 2010-CA-001698-MR

LISA VAUGHN

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT  
HONORABLE A. C. MCKAY CHAUVIN, JUDGE  
ACTION NOS. 03-CR-002415 & 03-CR-002439

COMMONWEALTH OF KENTUCKY

APPELLEE

AND

NO. 2010-CA-002173-MR

ERIC BANKS

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT  
HONORABLE MITCHELL PERRY, JUDGE  
ACTION NO. 05-CR-000958

COMMONWEALTH OF KENTUCKY

APPELLEE

AND

NO. 2011-CA-000392-MR

ANDRE ALEXANDER JAMES

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT  
HONORABLE AUDRA J. ECKERLE, JUDGE  
ACTION NO. 09-CR-002353

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
VACATING IN PART  
AND REMANDING

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BEFORE: DIXON, LAMBERT AND NICKELL, JUDGES.

DIXON, JUDGE: These three appeals have been designated to be heard together because they involve the resolution of the same legal issue; specifically, whether a trial court may order a defendant to pay restitution to the Kentucky State Treasury for extradition expenses incurred by the Commonwealth. We have elected to dispose of these three appeals in one opinion, and we conclude the courts below erred as a matter of law.

Appellant Vaughn and Appellant Banks each failed to appear for probation revocation hearings on their respective cases in Jefferson Circuit Court. Appellant James failed to appear for final sentencing after he entered a guilty plea in Jefferson Circuit Court. All three Appellants absconded to other jurisdictions,

and the Commonwealth ultimately had each of them extradited to Kentucky. In each case, the Commonwealth moved the trial court to order payment of restitution to the Kentucky State Treasury as reimbursement for extradition expenses. Over the objection of each Appellant, restitution was ordered in each case.<sup>1</sup> These appeals followed.

The Appellants contend that the courts below erroneously applied the restitution statutes, as the statutory scheme does not authorize a trial court to impose restitution for extradition expenses. In light of Appellants' argument, the Commonwealth concedes all three restitution orders were erroneous as a matter of law. We review a lower court's interpretation and application of a statute *de novo*. *Richardson v. Louisville/Jefferson County Metro Gov't*, 260 S.W.3d 777, 779 (Ky. 2008).

In *Commonwealth v. Bailey*, 721 S.W.2d 706, 707 (Ky. 1986), the court explained that the purpose of restitution is not an "additional punishment exacted by the criminal justice system. . . . It is merely a system designed to restore property or the value thereof to the victim." KRS 532.032 and KRS 532.033 vest the trial court with the authority to establish and enforce an order of restitution. KRS 532.350(1)(a) defines restitution to include "any form of compensation paid by a convicted person to a victim for counseling, medical

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<sup>1</sup> Appellant Vaughn was ordered to pay \$1,955.12. Appellant Banks was ordered to pay \$767.15. Appellant James was ordered to pay \$2,108.63.

expenses, lost wages due to injury, or property damage and other expenses suffered by a victim because of a criminal act[.]”

Under the circumstances presented here, the Commonwealth simply was not a victim who suffered a loss as a result of criminal acts committed by the Appellants; consequently, the trial courts were without statutory authority to order the Appellants to pay restitution to the Kentucky State Treasury for extradition expenses. *See* KRS 532.350(1)(a).

The Appellants additionally point out that the extradition statute, KRS 440.090, specifically provides that a government agent may seek compensation from the “State Treasury” for expenses involved “in reclaiming and returning the fugitive” to Kentucky. Notably, the extradition statute does not provide that the fugitive must then repay the Commonwealth for those expenditures.

In each of the three cases on appeal, we conclude the courts below erred as a matter of law by ordering restitution for the extradition expenses incurred by the Commonwealth. In each case, we vacate the portion of the judgment which orders restitution for extradition expenses and remand for further proceedings consistent with this opinion.

ALL CONCUR.

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