

THE STATE OF NEW HAMPSHIRE  
SUPREME COURT

No. 2018-0602

State of New Hampshire

v.

Bruce Moore

---

Appeal Pursuant to Rule 7 from Judgment  
of the Rockingham County Superior Court

---

---

REPLY BRIEF FOR THE DEFENDANT

---

Thomas Barnard  
Senior Assistant Appellate Defender  
Appellate Defender Program  
10 Ferry Street, Suite 202  
Concord, NH 03301  
NH Bar # 16414  
603-224-1236  
(Fifteen minutes oral argument)

TABLE OF CONTENTS

	<u>Page</u>
Table of Authorities .....	3
Argument	
I.    THE COURT ERRED BY ORDERING MOORE TO PAY FOR A NEW SECURITY SYSTEM THAT THE VICTIM PURCHASED FOLLOWING THE BURGLARY. ....	4
Conclusion.....	6

TABLE OF AUTHORITIES

Page

**Cases**

Appeal of Town of Lincoln,  
\_\_\_ N.H. \_\_\_ (June 7, 2019) .....5

**Statutes**

RSA 651:61-a.....4

I. THE COURT ERRED BY ORDERING MOORE TO PAY FOR A NEW SECURITY SYSTEM THAT THE VICTIM PURCHASED FOLLOWING THE BURGLARY.

At four points in its brief, the State cites a particular sentence from RSA 651:61-a, II: “The legislature intends that the court increase, to the maximum extent feasible, the number of instances in which victims receive restitution.” SB\* 17, 22, 23, 25. When placed in context, this language does not support the State’s position.

RSA 651:61-a sets forth a detailed “Statement of Purpose” for the restitution statutes. In the first sentence of this statement, “[t]he legislature finds and declares that the victims of crimes often suffer losses through no fault of their own and for which there is no compensation.” RSA 651:61-a, I. It then declares that the restitution statutes are intended to “establish a presumption that the victim will be compensated by the offender who is responsible for the loss.” *Id.* Thus, the purpose of the restitution statutes is to minimize the number of instances in which “victims . . . suffer losses . . . for which there is no compensation,” RSA 651:61-a, I, by maximizing “the number of instances in which victims receive restitution,” RSA 651:61-a, II (emphasis added). The purpose is not, as the State suggests, to maximize the amount of money that each defendant is ordered to pay.

---

\* Citations to the record are as follows:  
“SB” refers to the State’s brief.

Even if the legislature had indicated an intent to maximize the amount of the money that each defendant is ordered to pay, that would not necessarily authorize a court to order a defendant to pay over \$2000 for a victim's new home security system. "[I]t frustrates rather than effectuates legislative intent simplistically to assume that whatever furthers the statute's primary objective must be the law." Appeal of Town of Lincoln, \_\_\_ N.H. \_\_\_ (June 7, 2019). "[A]bsent evidence that the legislature intended such a result, . . . it would be error to allow the broad statutory purpose to override the specific language chosen by the legislature." Id. Here, for the reasons stated in Moore's opening brief, the specific language chosen by the legislature — "compensat[ion]," "economic loss" and "direct result" — establish that the statute did not authorize the court to order Moore to pay for the victim's new home security system.

CONCLUSION

WHEREFORE, Bruce Moore respectfully requests that this Court reverse.

Undersigned counsel requests fifteen minutes oral argument.

This brief complies with the applicable word limitation and contains 375 words.

Respectfully submitted,

/s/ Thomas Barnard  
Thomas Barnard, #16414  
Senior Assistant Appellate Defender  
Appellate Defender Program  
10 Ferry Street, Suite 202  
Concord, NH 03301

CERTIFICATE OF SERVICE

I hereby certify that a copy of this reply brief is being timely provided to Stephen Fuller, Senior Assistant Attorney General, through the electronic filing system's electronic service.

/s/ Thomas Barnard  
Thomas Barnard

DATED: August 14, 2019