

IN THE MATTER OF COMPLAINT  
AGAINST THE DIVISION OF  
COMMUNITY CORRECTIONS,  
DEPARTMENT OF CORRECTIONS,

Case No. 22-002

Respondent.

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### **FINAL DECISION**

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1. The Crime Victims Rights Board (the “Board”) finds that the complainant, SL,<sup>1</sup> has shown by clear and convincing evidence that the respondent, the Division of Community Corrections (“DCC”), Department of Corrections (“DOC”), violated one of SL’s rights as a crime victim.

### **COMPLAINT AND ANSWER**

2. SL filed a complaint with the Board, dated January 4, 2022, with a written statement, dated February 8, 2022.

3. Upon receipt of the complaint, the Board contacted the Department of Justice (DOJ) Office of Crime Victim Services, which verified that the substance of the complaint had been presented to DOJ and that DOJ

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<sup>1</sup> This final decision uses the victim’s initials to protect the victim’s privacy. The complaint pertains to restitution ordered to two individuals. SL signed the complaint on behalf of herself and the other individual. For purposes of this final decision, the Board use of SL refers to both individuals.

had completed the informal complaint process as to the issues raised in the complaint. Wis. Admin. Code CVRB § 1.05(1), (4).

4. Attorney Bronwyn M. Baldwin (“Baldwin”) filed a response on behalf of DOC. The Board had given a copy of the complaint to the respondent and had invited an answer. Wis. Admin. Code CVRB § 1.05(5).

### **PROBABLE CAUSE DETERMINATION**

5. At a meeting on September 27, 2022, the Board found probable cause that DOC violated SL’s right as a crime victim. Wis. Admin. Code CVRB § 1.05(6). The Board notified the parties and DOJ of its conclusions by issuing a written probable cause determination on October 27, 2022. Wis. Admin. Code CVRB § 1.05(8).

### **VICTIM RIGHT AT ISSUE**

6. In order to preserve and protect a victim’s rights to justice and due process throughout the criminal process, a victim shall be entitled to the following right, “which shall vest at the time of victimization and be protected by law in a manner no less vigorous than the protections afforded to the accused . . . [t]o full restitution from any person who has been ordered to pay restitution to the victim and to be provided with assistance collecting restitution.” Wis. Const. art. I, § 9m(2)(m); *see* Wis. Stat. § 950.04(1v)(q) (“Victims of crimes have the following rights . . . [t]o restitution, as provided under . . . [s.] 973.20.”); *see also* Wis. Stat. § 973.20(11)(a) (“the restitution order

shall require the defendant to deliver the amount of money or property due as restitution to the department [of corrections]”).

### **INVESTIGATION SUMMARY**

7. The Board directed its operations director to conduct an investigation to obtain records and gather more information. Wis. Admin. Code CVRB § 1.06(1).

8. The operations director obtained and received records that included court records, DOC records, and other information the Board deemed relevant.

### **HEARING REQUEST**

9. In a letter dated November 9, 2022, Attorney Baldwin, on behalf of DOC, requested an evidentiary hearing, as permitted by Wis. Admin. Code CVRB § 1.07(1). Attorney Baldwin presented five grounds in support of her request for a hearing, arguing that: (1) DOC does not have a constitutional obligation to assist with collecting restitution; (2) it does not have a statutory obligation to assist with collecting restitution from a probationer on community supervision; (3) it does not have authority to proactively collect restitution from an offender’s wages or other assets; (4) DOC had complied with its statutory duty under Wis. Stat. § 973.09(3)(b); and (5) it diligently reminded

the offender to make payments during his probation toward his restitution owed to SL. Attorney Baldwin included an appendix with the letter.

10. At a meeting on April 12, 2023, the Board found that an evidentiary hearing is unnecessary because there is not a dispute as to a material fact. Attorney Baldwin's first three grounds concern legal arguments; they do not present any dispute of fact. Attorney Baldwin's fourth ground does not present a dispute of material fact; court records identify whether the defendant's probation was extended and whether the court issued a civil judgment. Attorney Baldwin's fifth ground does address facts relevant for consideration, but such facts are not in dispute. The Board has sufficient information in regard to these facts including the records Attorney Baldwin provided in her appendix. The Board also conducted an investigation that included responses to written questions and obtaining written documentation and records. The Board reviewed the information gathered during the investigation and documentation provided by SL and DOC. The Board has the necessary information to make findings of fact.

### **FINDINGS OF FACT**

11. The Board's evidentiary standard for resolving disputed factual questions is the clear and convincing evidence standard. "Clear and convincing evidence' means evidence which satisfies and convinces the Board, because of

its greater weight, that a violation occurred.” Wis. Admin. Code CVRB § 1.07(7).

12. The Board finds that SL was a victim of property crimes committed by Timothy Day (“Day”). The State charged Day in Milwaukee County, Wisconsin, for crimes that included counts for the transfer of encumbered property and theft by false representation. The State filed its initial complaint on November 20, 2015. It then filed an information on December 11, 2015, followed by amended informations on January 29 and April 18, 2016.

13. The Board finds the circuit court convicted Day for the property crimes he committed against SL. Day entered a guilty plea on May 9, 2016, for the transfer of encumbered property committed on or about September 5, 2013. Day later entered a guilty plea on January 13, 2017, to two counts of theft by false representation, related to crimes committed on or about August 21 and September 5, 2013.

14. The Board finds the circuit court sentenced Day for the property crimes he committed. The court sentenced Day on August 26, 2016, for his conviction related to the transfer of encumbered property. For this crime, the court imposed and stayed a prison sentence of two years initial confinement followed by five years of extended supervision. The court then placed Day on probation for a term of five years with 300 days in the House of Correction as a condition of probation. The court entered this sentence in a judgment filed

on August 30, 2016. The court later sentenced Day on January 13, 2017, following his convictions for theft by false representation. On one count, the court imposed and stayed a prison sentence of two years initial confinement followed by two years extended supervision. On this count, the court placed Day on probation for a term of three years. On the second count, the court imposed and stayed a 200-day term in the House of Correction and placed Day on probation for a term of one year. The court entered this sentence in a judgment filed on January 25, 2017. Both the August 2016 judgment and January 2017 amended judgment included conditions of probation that prohibited Day from having involvement with any real estate entity and he could be involved only in a real estate transaction for his residence. As for the House of Corrections term, Day had work release privileges that he maintained for a few months, having worked a job that paid \$450.00 a week at the time.

15. The Board finds the circuit court ordered Day to pay restitution to SL for the crime of transferring encumbered property. In the judgment of conviction entered on August 30, 2016, the court ordered restitution of \$17,500.00 payable to SL with a stipulation by the parties that \$500.00 had been paid, leaving a remaining balance of \$17,000.00. The court scheduled a hearing to revisit restitution. In an amended judgment of conviction, entered on January 25, 2017, the circuit court added \$8,494.14 in restitution payable to SL. This amended judgment ordered a total of \$25,494.14 in restitution as a

condition of probation for the transferring encumbered property count. The amended judgment ordered the restitution due by the end of the probationary term on this count; that is, it was due on August 30, 2021.

16. The Board finds that the circuit court, through its judgment of conviction, had identified DOC as the agency associated with the restitution condition. The judgment identified that DOC shall collect the sums due, including restitution. The judgment further stated, if Day were in state prison, he was ordered to authorize DOC to collect, from his wages and from other monies held in his inmate account, an amount or percent which DOC determines is reasonable for restitution.

17. The Board finds that DOC has recognized the importance of restitution and has a process to collect restitution from a probationer for dispersal to a victim. DOC has an offender handbook that identifies restitution as an important condition of supervision. It informs an offender that a probation agent may collect restitution. A publicly available DOC guidance document, related to DCC intake, identifies payment of financial obligations by a probationer as an important part of supervision with restitution payments demonstrating a concern for the victim. The DCC document identifies a process of a probationer paying restitution and a DOC cashier's unit then generating and mailing restitution checks to a victim. The DCC document recognizes that DOC will not collect supervision fees until after full payment of an active

restitution order or conversion of the order to a civil judgment. (DOC Electronic Case Reference Manual, Financial Obligations and Supervision Fees, Sections .03 Supervision Fees and .04 Restitution.)

18. The Board finds that Day was placed on probation to DOC. A Division of Community Corrections (“DCC”) Intake and Investigation form, identified as DOC-3A, was prepared on August 26, 2016. Day’s rules of supervision on probation included compliance with court ordered conditions and payment of court ordered obligations, as directed by his agent. Day signed the rules of supervision on August 26, 2016. On multiple occasions during his probation term, Day again signed the rules of supervision, including after entry of the amended judgment that ordered a total of \$25,494.14 in restitution, such as on June 27, 2017, where he again acknowledged having received a copy of the supervision rules that included compliance with court ordered conditions and payment of court ordered obligations, as directed by his agent.



19. The Board finds that, during the five-year probation term, DOC collected from Day \$1,970.00 out of the \$25,494.14 in restitution owed. DOC records identify the following offender payment history:

Date	Amount
03/13/2018	\$ 25.00
08/21/2018	25.00
09/07/2018	25.00
10/15/2018	55.00
01/07/2018	50.00
01/07/2018	50.00
05/09/2019	60.00
05/10/2019	60.00
08/09/2019	120.00
09/09/2019	60.00
10/02/2019	60.00
10/14/2019	60.00
12/18/2019	60.00
12/18/2019	60.00
01/13/2020	60.00
04/27/2020	120.00
06/26/2020	240.00
10/09/2020	180.00
01/22/2021	180.00
03/01/2021	60.00
04/07/2021	60.00
05/12/2021	60.00
07/13/2021	120.00
07/15/2021	60.00
08/27/2021	60.00
Total:	\$ 1,970.00

20. The Board finds that Day paid \$1,020.00 after May 4, 2020, having paid \$950.00 prior to this date.<sup>2</sup> Day had served nearly three-quarters of his five-year probation term as of May 4, 2020; he still had over one-quarter to serve with more than 15 months remaining on term.

21. The Board finds that Day had a face-to-face case plan meeting with his probation agent on April 9, 2020, approximately one month before May 4, 2020. Case plan notes and supervision contact notations confirm that Day was employed and identify he still owed nearly \$25,000.00 in restitution at the time. The plan included Day making another payment that month with the next appointment scheduled for three months later, on July 9, 2020.

22. The Board finds only three general notes in the DOC List Report between Day's meetings with his probation agent on April 9 and July 9, 2020. The first is a notation of DCC having received a \$120.00 payment by a money order received in April 2020. The second is a notation that the victim called on June 22, 2020. SL reported at that time having only received two payments thus far in 2020. The DCC note stated a probation agent informed SL of an upcoming meeting with Day, scheduled for July 9, 2020. The note continued that the agent would ask Day about payments and advised that, if Day did not

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<sup>2</sup> The victim right in Wis. Const. art. I, § 9m(2)(m), at issue here became effective the day election results were certified on May 4, 2020. Wis. Stat. § 7.70(3)(h). Wisconsin voters had approved and ratified amendment to Wis. Const. art. I, § 9m, in an election on April 7, 2020.

pay restitution, then it would be converted to a civil judgment. The third is a notation of DCC having received a \$240.00 payment by a money order received on June 26, 2020.

23. The Board finds that a probation agent had a meeting with Day on July 9, 2020. A supervision contact note identifies that the meeting took place by telephone. Day reported that he was still working. The note continues that Day now will send in payments once a month. The note ends that the next appointment was scheduled for early October 2020.

24. The Board finds that Day made only one restitution payment in the six months that followed the meeting with his probation agent on July 9, 2020. The DOC List Report identifies only one meeting scheduled by a probation agent with Day during this six-month period. A supervision contact note shows a video home visit and supervision contact on October 7, 2020. The notation does not identify any discussion about restitution or payments. The note ends that the next appointment will take place about three months later, in mid-January 2021. The only restitution was a payment by money order for \$180.00 in early October 2020.

25. The Board finds that, in the first several weeks of 2021, there was only one restitution payment and one recorded meeting between Day and his probation agent. The DOC List Report shows a supervision contact by videoconference took place on January 20, 2021. The note states that a

probation agent asked Day about restitution payments because the victim had called for information. The note continues that Day alleged he had mailed a payment a few days earlier in the amount of \$180.00. The note states the probation agent asked whether Day could make payments once per month and he agreed, noting that Day was employed and could pay \$60.00 per month. The next notation in the DOC List Report shows the \$180.00 payment made in mid-to late January 2021.

26. The Board finds that there were six restitution payments and five recorded meetings between Day and his probation agent during the final six and a half months of probation. The DOC List Report shows a supervision contact by video or call-in on February 25, 2021, with discussion about payment of restitution at \$60.00 per month. The next notation is confirmation of a \$60.00 payment shortly after the meeting, followed by a subsequent notation of a \$60.00 payment in April 2021. The DOC List Report shows a supervision contact by video or call-in on April 20, 2021, followed by a similar supervision contact on May 11, 2021. The DOC List Report shows the \$60.00 payment in May 2021 followed by a \$120.00 payment in July 2021. The next notation in the DOC List Report after the latter of these payments identifies that a face-to-face supervision contact took place on July 14, 2021. A notation states that Day brought a \$60.00 restitution payment to this office visit. The note records that the next appointment would be August 25, 2021, with the

last day of probation being the following day on August 26, 2021. The DOC List Report states that Day came to the final appointment and brought with him a \$60.00 payment. A notation states Day was informed there would be a civil judgment for the balance of the restitution owed.

27. The Board finds that DOC, through its DCC probation agents, had initially started restitution collection during the probation term after SL had contacted a probation agent following more than a year of nonpayment by Day. A DOC List Report entry on November 3, 2017, states SL contacted Day's probation agent regarding restitution payments. The next DOC List Report entry, dated November 21, 2017, states the probation agent and Day discussed restitution and how he had failed to make any payments toward it with the agent informing Day "that he needs to at least make an effort to pay." The notation states that Day had been working a "for-cash" position for several months with Day having "denied having otherwise legitimate employment." A DOC List Report entry, dated December 18, 2017, states that a probation agent "created a very brief case plan to focus on restitution payments." The notation continues that the agent informed Day that he needed to have a restitution payment at his next appointment. The DOC List Report shows the next meeting between Day and his probation agent occurred on March 12, 2018. They discussed the lack of restitution payments and, shortly thereafter, Day made his first restitution payment, in the amount of \$25.00.

28. The Board finds that DOC established a monthly rate for collection significantly below what was needed for Day to fully pay the restitution owed by the end of the probation term. A DOC List Report entry, from an event on September 28, 2018, states a probation agent told Day “he needs to be making at least \$50 a month [in] payments.” A probation agent and Day again discussed restitution payments during a phone conversation followed up shortly thereafter with a face-to-face office visit in May 2019. Shortly after the phone call, Day made a \$60.00 restitution payment. And Day followed that up with another \$60.00 restitution payment that he brought to the office visit on May 10, 2019. A DOC List Report entry states Day was employed full-time for a realty company and further states Day had sold a house for a friend, but the sale resulted in money having to be paid back because a lien had been on the property. Subsequent DOC List Report entries state Day had continued to work for a real estate company. The entries include statements that Day worked “cleaning out apartments” as “a clean[ing] person” for the real estate company with a reference to having a “check stub.” Day made restitution payments equivalent to about \$60.00 per month from May 2019 to the end of the probation term.

29. The Board finds that, after May 4, 2020, DOC did not make any significant or notable effort to change its restitution collection efforts with Day. Entries in the DOC List Report prior to that date state that Day lived alone,

having never been married and having no children. DOC List Report entries identify Day having initially been a homeowner and later renting a residence at the reduced rent of \$350.00 per month because he performed maintenance and repairs for the landlord. The DOC List Report entries do not show any notable discussion or communication about increasing either the amount or frequency of restitution payments.

30. The Board finds that, prior to the end of the five-year probation term, DOC notified the circuit court on the status of Day's court ordered financial obligations. On May 3, 2021, the clerk of the circuit court received a notice filed by DOC that stated that Day still owed the \$23,824.14 in restitution, along with additional court related obligations. The notice did not include the final \$300 that Day paid from May to August 2021, because it had been last updated on April 8, 2021.

31. The Board finds that Day still owed \$23,524.14 in restitution when his probation terminated on August 26, 2021, at the end of the five-year term. DOC provided a notice of case status change that was dated August 31, 2021. It notified the circuit court that Day had been discharged from probation a few days earlier on August 26, 2021. The notice showed an outstanding restitution obligation of \$23,524.14 with additional court obligations and supervision fees due. Day paid less than ten percent of the restitution due during his five-year term of probation.

32. The Board finds that the circuit court entered a civil judgment for the unpaid restitution. The circuit court entered a judgment on September 1, 2021, in the amount of \$23,524.14 for the unpaid restitution. The judgment identified Day as the debtor and the clerk of courts as the creditor. The clerk of courts reported to the Board in its initial response that it had made a referral to a credit management corporation, a collection agency, and for collection through the Tax Refund Interception Program (“TRIP”), through the Department of Revenue (“DOR”).<sup>3</sup> At the time of its initial response to the Board, the clerk of court stated collection had been unsuccessful because the credit management corporation had not been able to identify Day’s employer and nothing had been intercepted through TRIP. The court did not hold a hearing prior to converting the unpaid restitution to a civil judgment.

33. The Board finds DOC had changed Day’s restitution obligation to zero dollars due after his discharge from probation. DOC explained during the investigation that it zeroed the restitution balance in its internal accounting system because the circuit court had entered a civil judgment for the outstanding balance.

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<sup>3</sup> The clerk of courts provided this information to the Board in its answer to SL’s complaint. The clerk of courts initially had been a respondent to SL’s complaint. The Board did not find probable cause that the clerk of courts had violated SL’s right as a crime victim.



34. The Board finds that DOC pursued recovery of supervision fees before Day had satisfied his outstanding restitution obligation. DOC explained during the investigation that it began pursuing recovery of supervision fees while Day was on active supervision, after the fees reached a \$200.00 threshold. DOC explained during the investigation that Day had reached the \$200 threshold in 2017. DOC stated during the investigation that it referred to TRIP the outstanding supervision fees that Day owed, with a notification letter sent in 2017 and reminder letters sent annually thereafter. DOC stated during the investigation that it had not yet received any supervision fees from its referral to TRIP. In a discharge certification presented in conjunction with the termination of probation, DOC instructed Day that the discharge did not forgive his outstanding balance for unpaid supervision fees that were in an amount of \$1,160.00 at the time his probation terminated on August 26, 2021.

### **CONCLUSIONS OF LAW**

35. The state constitution provides that, “[i]n order to preserve and protect victims’ rights to justice and due process throughout the criminal and juvenile justice process, victims shall be entitled to . . . rights, which shall vest at the time of victimization and be protected by law in a manner no less vigorous than the protections afforded to the accused” that includes the right “[t]o full restitution from any person who has been ordered to pay restitution

to the victim and to be provided with assistance collecting restitution.” Wis. Const. art. I, § 9m(2)(m).

36. The Board concludes that DOC is a public agency subject to the authority of the Board. Wis. Stat. § 950.09(2)(a).

37. Before the Board may find a violation of the right to be provided with assistance collecting restitution, the complainant must show by clear and convincing evidence under the totality of the evidence that the following four elements were present:

a. SL was a crime victim. *See* Wis. Stat. § 950.09(2) (Board’s authority for a violation of a crime victim right);

b. The circuit court ordered the defendant to pay restitution to SL.<sup>4</sup> *See* Wis. Const. art. I, § 9m(2)(m) (constitutional right);

c. DOC had authority to assist in the collection of restitution. *See Koschkee v. Taylor*, 2019 WI 76, ¶ 20, 387 Wis. 2d 552, 929 N.W.2d 600 (an agency’s powers, duties, and authority are fixed and circumscribed by the legislature); and

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<sup>4</sup> The Board does not conclude that the right to restitution collection assistance is limited to a circuit court having ordered restitution. The right may extend to an agreement. *See, e.g.* Wis. Stat. §§ 938.245(2)(a)5.; 971.41(3)(b) (restitution in a deferred prosecution agreement or program). Here, the circuit court ordered restitution, so the right to restitution collection assistance under an agreement is beyond the scope of this decision.

d. DOC did not provide restitution collection assistance. *See* Wis. Const. art. I, § 9m(2)(m) (constitutional right). Restitution collection assistance means providing a victim with assistance collecting restitution throughout the criminal or juvenile justice process until the person has paid the full restitution owed to the victim. *See id.* (constitutional right). In order to preserve and protect a victim's right to restitution collection, the assistance shall be provided in a manner no less vigorous than the protections afforded to the accused. *See id.* (constitutional right).

38. The burden of proof is on the complainant. This burden of proof is very important and can be the deciding factor in the Board's resolution of factual disputes. Where the evidence on a particular factual question is equally believable or plausible, the effect of the burden of proof is that the Board must find that the complainant failed to prove the point by clear and convincing evidence.

39. The Board concludes that SL was a crime victim, specifically, a victim of the property crimes committed by Day that included a crime for the transfer of encumbered property. *See* Wis. Const. art. I, § 9m(1)(a)1.; Wis. Stat. § 950.02(4)(a)1. (victim definitions).

40. The Board concludes that the circuit court ordered the defendant, Day, to pay restitution to SL in the amount of \$25,494.14. The Board also

concludes that, in the judgment of conviction entered on August 30, 2016, the circuit court had initially ordered restitution at \$17,500.00 with a stipulation by the parties that \$500.00 had been paid, leaving a remaining balance of \$17,000.00. The Board further concludes the circuit court added \$8,494.14 in restitution payable to SL in an amended judgment of conviction, entered on January 25, 2017. In determining whether to order restitution and the amount thereof, the court had to consider factors that included the amount of loss suffered by SL, the financial resources of Day, and the present and future earning ability of Day. Wis Stat. § 973.20(13)(a)1.–3. The amended judgment of conviction ordered the restitution due by the end of the probation period. *See* Wis. Stat. § 973.20(10)(a) (provision for payment within a specified period that cannot extend beyond a probation term).

41. The Board concludes DOC had authority to assist in the collection of restitution. Restitution was a condition of probation. Wis. Stat. § 973.20(1r). The judgment of conviction identified DOC as having a role in restitution collection. DOC's own guidance document and its offender handbook recognize its ability to collect restitution from a probationer, as demonstrated here by DOC having collected some restitution from Day.

42. The Board concludes that DOC did not provide restitution collection assistance. Prior to the constitutional right to restitution collection assistance, DOC did not proactively pursue restitution collection; it was

passive and reactive. The circuit court sentenced Day to a five-year probation term with restitution ordered at \$25,494.14. Prior to ordering that amount, the court had to consider Day's financial resources, along with his present and future earning ability. Wis Stat. § 973.20(13)(a)1.–3. DOC collected nothing in restitution until reacting to SL having contacted a DCC probation agent more than a year into the probation term. It then started collecting a nominal amount of restitution in monthly payments, first at a rate of \$25.00 and then at either \$50.00 or \$55.00 before settling into a rate of \$60.00 per month in May 2019. After the constitutional right for restitution collection assistance, DOC did not vigorously pursue restitution; it simply continued at the \$60.00 per month collection rate. Day had the means to make restitution payments. He had been a homeowner. He then rented a property at a reduced rate because he performed maintenance and repairs for the landlord. Day had no dependents, having never been married and having no children. Day was employable, often having a job and working during the probation term.<sup>5</sup>

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<sup>5</sup> The Board takes no position as to whether Day's employment for a real estate company violated a condition of his probation because that is beyond the scope of this decision, except insofar as it may demonstrate passivity or disregard in effectuating the circuit court's sentence. But the Board does have concern with DOC either approving or taking no action on a probationer working a "for-cash" position that is not "otherwise legitimate employment" because it may deprive or hamper a victim of the opportunity for recovery through an earning garnishment. *See* Wis. Stat. ch. 812, subch. II (earnings garnishment). The Board identifies this concern, but it did not factor into its decision because Day's work under such an arrangement appears to have taken place prior to the effective date of Wis. Const. art. I, § 9m(2)(m).

Notably, Day usually paid the rate established by his probation agent. When his agent instructed he “needs to at least make an effort to pay,” Day paid \$25.00. And when his agent said, “he needs to be making at least \$50 a month payments,” Day increased his payment. Day’s agents then settled on \$60.00 a month, an amount he regularly paid either in a monthly payment or a combined multi-month payment. So Day usually paid whatever rate his probation agent had established. But settling on such a nominal monthly rate ensured that Day’s probation term would end with more than 90 percent of the restitution remaining unpaid. DOC collected some restitution from Day, but it did not vigorously assist in restitution collection after the constitutional right became effective; it simply continued collection at the nominal \$60.00 a month rate employed prior to the constitutional right—an amount that equates to about \$15.00 a week or two dollars a day. *See State v. Foley*, 153 Wis. 2d 748, 754, 451 N.W.2d 796, 798 (Ct. App. 1989) (“Some financial discomfort is consistent with the rehabilitative goal of probation and restitution.”) DOC did so, while actively pursuing collection of its unpaid supervision fees during the term of probation. *Contra* Wis. Stat. § 304.074(3m) (prohibiting supervision fees collection when restitution is owed).

43. The Board concludes that the conversion of a restitution order to a civil judgment at the termination of probation is a civil enforcement mechanism. *Huml v. Vlazny*, 2006 WI 87, ¶ 44, 293 Wis. 2d 169, 716 N.W.2d

807. But DOC complying with its statutory duty under Wis. Stat. § 973.09(3)(b) to notify the sentencing court that Day still owed a significant amount of restitution, by itself, does not provide a victim with restitution collection assistance. To the contrary, it shifted collection from DOC to SL, as exemplified by DOC having zeroed out the restitution balance and leaving SL with the burden of collection.

44. The Board concludes that DOC, through its DCC, violated SL's right as a crime victim to be provided with assistance collecting restitution.<sup>6</sup> *See* Wis. Const. art. I, § 9m(2)(m) (constitutional right).

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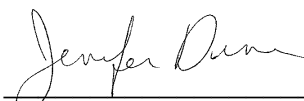
<sup>6</sup> This conclusion pertains only to the period after Wis. Const. art. I, § 9m(2)(m) became effective; it does not pertain to the period before its effective date.

## ORDER

Based on the foregoing, it is hereby ORDERED:

1. That the complainant has shown by clear and convincing evidence that the respondent violated the complaint's rights as a crime victim;
2. That the Board declines to issue a sanction or civil action against DOC. *See* Wis. Stat. § 950.09(2) (sanctions and civil action);
3. That, in lieu of sanction, civil action, or other remedy, the Board may issue a report and recommendation concerning the securing and provision of the crime victims right to be provided with assistance collecting restitution. Wis. Stat. § 950.09(3);
4. That this is a final, appealable order of the Board, and as such makes final and appealable any previous non-final orders of the Board;
5. That judicial review of this final decision is governed by Wis. Stat. §§ 227.52–.59. *See* Wis. Admin. Code CVRB § 1.10; and
6. That a copy of this final decision shall be provided to all parties in this proceeding and in accordance with Wis. Admin. Code CVRB § 1.05(8), as identified in the “Service List” below.

Dated this 18th day of May 2023.



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Chairperson Jennifer Dunn  
Crime Victims Rights Board



## SERVICE LIST

SL

[address withheld]

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Division of Community Corrections  
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