Filed 02/27/2020 by Clerk of Supreme Court

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

2020 ND 43

State of North Dakota, Plaintiff and Appellee

v.

Samy Lee Benson, Defendant and Appellant

No. 20190278

Appeal from the District Court of Burleigh County, South Central Judicial District, the Honorable Daniel J. Borgen, Judge.

AFFIRMED.

Per Curiam.

Wayne D. Goter, Assistant State's Attorney, Bismarck, ND, for plaintiff and appellee; submitted on brief.

Russell J. Myhre, Enderlin, ND, for defendant and appellant; submitted on brief.

State v. Benson
No. 20190278

Per Curiam.

[¶1] Samy Lee Benson appeals from a criminal judgment and restitution order. At the restitution hearing the State introduced evidence of the victim's cost of repair. Benson did not introduce contrary evidence. On appeal, Benson argues the district court erred by ordering $16,446.03 in restitution because the award exceeds what would make the victim "whole." We summarily affirm under N.D.R.App.P. 35.1(a)(2), (4), and (7). *See State v. Clayton*, 2016 ND 131, ¶ 10, 881 N.W.2d 239 ("When the party with the burden of proof establishes a prima facie case, the burden of going forward with the evidence shifts . . . to the defendant . . . [and the] party will prevail unless the opposing party offers proof to the contrary. To make a showing of proof to the contrary, the defendant must present evidence sufficient to equalize the weight of the plaintiff's evidence." (internal citations and quotation marks omitted)).

[¶2] Jon J. Jensen, C.J.
Daniel J. Crothers
Gerald W. VandeWalle
Lisa Fair McEvers
Jerod E. Tufte