

**IN THE SUPERIOR COURT  
OF THE  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

COMMONWEALTH OF THE  
NORTHERN MARIANA ISLANDS,

Plaintiff,

vs.

AARON TORRES CABRERA,  
ROMAN TAISACAN CABRERA,  
ROMAN TORRES CABRERA, JR., and  
CONRAD SABLAN MONTANO, a.k.a.  
CONRAD SABLAN

Defendants.

Criminal Case No: 00-038 1 A  
Consolidated with Criminal  
Case No: 0 1-0225B

**ORDER GRANTING  
RESTITUTION**

**I. PROCEDURAL BACKGROUND**

This matter came before the Court on January 3, 2002 at 9:00 a.m. in courtroom 223 A for a Restitution hearing. Assistant Attorney General Clyde Lemons, Esq., appeared on behalf of the Government. Joseph A. Arriola, Esq., appeared on behalf of Defendants. The Court, having heard the arguments of counsel and being fully informed of the proffered arguments now renders its written decision.

**II. RESTITUTION ORDER**

The purpose of awarding restitution to the victim is “to lead a criminal defendant to

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understand that he or she has a responsibility to make the victim whole.” People v. Yanez, 38 Cal. App. 4th 1622, 1626-1627 (1995) *citing* People v. Richards, 17 Cal. 3d 614,620 (1976). Article I, Section 11, of the N.M.I. Constitution supports this purpose by stating, “The right of the people to be secure in their persons, houses, and belongings against crime shall be recognized at sentencing. Restitution to the crime victim shall be a condition of probation and parole except upon a showing of compelling interest.” N.M.I. Const. art. I, § 11.

6 CMC § 4109 goes on to state,

If a defendant is convicted of any offense defined in this title, the court may, in lieu of or in addition to other lawful punishment or as a condition of probation or suspension of sentence, order restitution or compensation to the owner or person damaged or the forfeiture of wrongfully obtained property to the Commonwealth.

**6 CMC §4109.**

The Commonwealth Constitution and 6 CMC § 4109 demonstrate that restitution may be ordered and that the Superior Court has the discretion to determine what expenses should be covered. Commonwealth v. Mitchell, App. No. 95-019 (N.M.I. Sup. Ct. Feb. 5, 1997) (Opinion at 5). Accordingly, this Court orders restitution to be paid, jointly and severally by Defendants: AARON TORRES CABRERA, ROMAN TORRES CABRERA, JR. and CONRAD SABLAN MONTANO, to the following victims in the following amounts:

- 1. VINCENT CASTRO ESTEVES**
  - a. \$650.00 - Automobile Repairs
  - b. \$304.20 - Hospital Bills
  - c. \$116.80 - Replacement of Hearing Aid
  
- 2. ISIDRO CABRERA LIZAMA**

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- a. \$25.00 - Replacement of Table
- b. \$100.00 - Damage to Window and Door

It should be noted that Plaintiff LIZAMA was also seeking restitution for the replacement of the tin-roof of his house and to the flooring which he stated needed to be repaired due to water damage that leaked through holes made in the roof by the rocks that were thrown at his house. In denying restitution, the Court relied upon the notion that any loss for which restitution is ordered must result directly **from** the defendant's offense. United States v. Salcedo-Lopez, 907 F.2d 97, 98 (9th Cir.1992) *citing* United States v. Kenney, 789 F.2d 783, 784 (9th Cir.1986); see *also* United States v. Tyler, 767 F.2d 1350, 1351 (9th Cir. 1985).

LIZAMA states that the rocks made holes in his roof which lead to the rotting of the floor due to leaking rain water. LIZAMA did not present any demonstrative or documentary evidence to support his assertion. Moreover, LIZAMA testified on cross-examination that neither the roof nor the floor had been replaced or repaired since the house was built in early 1970. This assertion calls into doubt the required element of causation between action and injury.

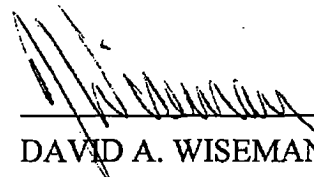
Causation is a question of fact, Bunting v. United States, 884 F.2d 1143, 1145 (9th Cir. 1989), which the government has the burden of establishing by a preponderance of the evidence that the victim's damages were caused by the conduct of which the defendant was convicted. United States v. Parrott, 992 F.2d 914, 917 (9<sup>th</sup> Cir. 1993).

Here, given LIZAMA's testimony concerning the age of the house coupled with the lack of evidence, the record simply fails to establish by a preponderance of the evidence the requisites for restitution beyond restitution for the table. LIZAMA has failed to causally connect Defendant's actions to his claimed damage. Accordingly, restitution is DENIED regarding the

alleged damages to the roof and floor.

Lastly, it should be noted that the exclusion of Defendant ROMAN TAISACAN CABRERA from payment of restitution was not judicial oversight. This defendant was intentionally excluded from liability because the government failed to demonstrate a causal connection between Defendant's actions and **Plaintiff's** injuries.

So ORDERED this 8<sup>th</sup> day of January, 2002.

  
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DAVID A. WISEMAN, Associate Judge

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