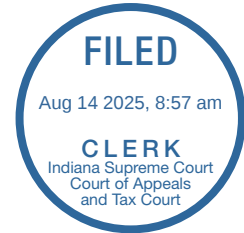
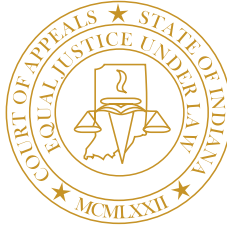


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



IN THE Court of Appeals of Indiana

Jordan Alec Andrade,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

August 14, 2025

Court of Appeals Case No.
24A-CR-2667

Appeal from the Porter Superior Court
The Honorable Jeffrey Clymer, Judge

Trial Court Cause No.
64D02-2311-MR-10150

Memorandum Decision by Chief Judge Altice
Judges Pyle and DeBoer concur.

Altice, Chief Judge.

Case Summary

- [1] Jordan Andrade pled guilty but mentally ill to murder and received a fully executed sentence of sixty years. There was no mention of restitution at the sentencing hearing or in the trial court's sentencing order. The day after Andrade was sentenced, however, the State filed a motion requesting restitution in the amount of \$5,000, which the trial court granted. On appeal, Andrade argues that the trial court did not have the authority to modify his sentence in this manner.
- [2] We reverse and remand.

Facts & Procedural History

- [3] On October 29, 2023, while mentally ill¹ and suffering from paranoia, Andrade murdered a random individual at a Planet Fitness in Valparaiso, Indiana. He stabbed the victim, who was sitting in a massage chair, once in the head. The victim died from his injury, and the State charged Andrade with murder.
- [4] The trial court appointed two mental health professionals to opine regarding Andrade's competency to stand trial. There was a split of opinion, so the trial court appointed a third mental health professional to offer an opinion. On

¹ In 2019, at the age of twenty, Andrade began experiencing symptoms of mental illness and was diagnosed with, among other things, bipolar disorder and schizophrenia. He was still being treated for such and taking antipsychotic medication at the time of the murder.

February 27, 2024, this third mental health professional indicated that he believed Andrade was competent to stand trial.

- [5] Andrade and the State entered into a plea agreement on June 28, 2024, pursuant to which Andrade pled guilty but mentally ill to murder. The agreement provided for a sentencing cap of sixty years and for “[r]estitution to be determined by the Victim’s Assistance Unit within thirty (30) days.”

Appendix at 70. The trial court accepted the plea agreement.

- [6] On October 10, 2024, the trial court held a sentencing hearing at which the State and Andrade presented evidence and made their respective arguments regarding the length of sentence Andrade should receive. The State did not address restitution or present the court with a recommendation from the Victim’s Assistance Unit at the hearing. After imposing a sixty-year sentence, the trial court informed Andrade that he had a right to appeal the length of his sentence but not his conviction. The court also indicated that it would appoint a public defender to represent Andrade on appeal.

- [7] The written sentencing order, issued the same day, provided in relevant part:

After review of the Pre-Sentence Investigation Report, Statements from witnesses and Family members, Judicial Notice of the Mental Health Evaluations and arguments of the parties, the Court Sentences the Defendant as follows:

COUNT I: MURDER BUT MENTALLY ILL, a FELONY:

**SIXTY YEARS IN THE INDIANA DEPARTMENT OF
CORRECTION OR INDIANA STATE DEPARTMENT OF
MENTAL HEALTH WITH NONE SUSPENDED. CREDIT
FOR TIME SERVED THROUGH TODAY, TO WIT:
358 ACTUAL DAYS.**

**COURT COSTS OF \$189.00 ASSESSED AND ENTERED AS
A JUDGMENT LIEN.**

The Defendant is advised of his right to appeal his sentence. He informs the Court that he wishes to appeal the sentence only. The Court appoints the Porter County Public Defender to represent the Defendant in the appellate process.

The Defendant is remanded into the hands of the Porter County Sheriff.

ALL OF WHICH IS ORDERED, ADJUDGED AND
DECREED BY THE COURT THIS 10TH DAY OF
OCTOBER 2024.

Id. at 97.

- [8] The next day, the State filed a motion requesting restitution entered as a judgment lien in the amount of \$5,000, as purportedly determined by the Victim's Assistance Unit. The trial court summarily granted the State's motion on October 14, 2024.
- [9] Andrade now appeals, challenging only the restitution order. Additional information will be provided below as needed.

Discussion & Decision

1. Waiver

[10] As an initial matter, we address the State’s argument that Andrade’s appeal should be dismissed because he waived his right to appeal his sentencing, including restitution. The State directs us to the following waiver language in the plea agreement:

As further consideration for this Plea Agreement, I hereby waive appellate review of my conviction(s), any restitution order imposed, and sentence(s) imposed by the court that is consistent with the terms of this Plea Agreement. This waiver of appellate review includes but is not limited to: challenges to the manner in which my conviction, my sentence, and/or the restitution order was/were determined or imposed

Id. at 71.

[11] Plea agreements are contracts and once accepted by the trial court, the terms of the agreement are binding upon the trial court, the State, and the defendant. *Archer v. State*, 81 N.E.3d 212, 215-16 (Ind. 2017). “Absent due process concerns to the contrary, when a defendant explicitly agrees to a particular sentence or a specific method of imposition of sentences, whether or not the sentence or method is authorized by the law, he cannot later appeal such sentence on the ground that it is illegal.” *Crider v. State*, 984 N.E.2d 618, 625 (Ind. 2013); *see also Archer*, 81 N.E.3d at 216 (“A defendant may waive his or her right to appeal a sentence as part of a plea agreement and such waivers are valid and enforceable.”).

- [12] In the plea agreement, Andrade agreed to waive appellate review of any restitution order imposed by the trial court **consistent with the terms of the plea agreement**. This waiver of appellate review included appellate challenges to the manner in which the restitution order was determined or imposed.
- [13] The terms of the plea agreement provide that restitution would be determined by the Victim’s Assistance Unit “within thirty (30) days.” *Appendix* at 70. But the Victim’s Assistance Unit neither determined the amount of restitution within this timeframe nor provided the trial court with this figure at or before the sentencing hearing. Andrade’s argument on appeal, as addressed more fully below, is that the trial court could not alter his sentence after it was imposed based on a belated determination by the Victim’s Assistance Unit regarding restitution. As restitution was not imposed consistent with the terms of the plea agreement and Andrade did not “explicitly agree[]” to his sentence being modified after sentencing, he has not waived appellate review of this issue. *Crider*, 984 N.E.2d at 625 (“[T]he ‘default rule’ for plea agreements is that sentences will be determined and imposed legally, where there is no agreement otherwise.”); *see also Davis v. State*, 217 N.E.3d 1229, 1236 n.3 (Ind. 2023) (as modified on reh’g) (noting that “there remain circumstances where defendants may pursue a direct appeal of sentencing issues notwithstanding an appeal waiver” such as where issues “fall outside the scope of the waiver”).

2. The Merits

- [14] Andrade argues that the trial court lost jurisdiction to impose restitution once it sentenced him on October 10, 2024, because the sentencing order did not

mention restitution or expressly leave the matter open to be determined later. Thus, he contends that the restitution order, issued four days after the final sentencing judgment, constituted an impermissible sentencing modification as a matter of law.

[15] It is well established that an order of restitution, whether issued as a condition of probation or as a money judgment, is part of a defendant's sentence. *Pearson v. State*, 883 N.E.2d 770, 773 (Ind. 2008). Further, after issuing a final sentencing judgment, the trial court retains only such continuing jurisdiction as is permitted by the judgment itself, or as given by statute or rule. *Wilson v. State*, 688 N.E.2d 1293, 1295 (Ind. Ct. App. 1997); *see also Woodford v. State*, 58 N.E.3d 282, 283 n.4 (Ind. Ct. App. 2016). In other words, "[a] trial court does not have inherent power to modify a sentence." *Wilson*, 688 N.E.2d at 1295.

[16] In *Wilson*, this court reversed an order imposing restitution that was entered after the sentence had been issued, stating:

Here, the trial court entered a final judgment with respect to Wilson's Theft conviction on August 14, 1995 when it sentenced Wilson to three years, executed. The trial court's sentencing order did not purport to retain any continuing jurisdiction over Wilson. Further, as we find no statutory provision which would give the trial court jurisdiction to enhance Wilson's sentence by entering a restitution order after a sentence has already been pronounced, we hold that the trial court lacked authority to enter such an order.

Id.

[17] Similarly, here, the sentencing order issued by the trial court on October 10, 2024, which imposed the custodial sentence and court costs, did not purport to retain any continuing jurisdiction over Andrade to hold the matter of restitution open and allow the Victim’s Assistance Unit to file a belated determination of restitution. On the record before us, it appears that the State simply forgot to address restitution at the sentencing hearing. This resulted in a sentencing order, a final order,² that did not include restitution as part of the sentence. The State could not cure its omission with its later motion for restitution, as the trial court lacked authority to order restitution at that point.

[18] Reversed and remanded with instructions for the trial court to vacate its October 14, 2024 restitution order.

Pyle, J. and DeBoer, J., concur.

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² The State’s assertion that this order was not a final judgment is without merit. The order did not “reserve[]” the issue of restitution for future determination. *Appellee’s Brief* at 11.