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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSEPH LUIS SEPULVEDA et al.,

Defendants and Appellants.

B261627

(Los Angeles County  
Super. Ct. No. BA344081)

APPEAL from an order of the Superior Court of Los Angeles County, Robert J. Perry, Judge. Affirmed.

Lynda A. Romero, under appointment by the Court of Appeal, for Defendant and Appellant Joseph Luis Sepulveda.

David McNeil Morse, under appointment by the Court of Appeal, for Defendant and Appellant Gustavo Alvarez.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Victoria B. Wilson and Viet H. Nguyen, Deputy Attorneys General, for Plaintiff and Respondent.

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In 2011, defendants Joseph Luis Sepulveda and Gustavo Alvarez (collectively, defendants) were convicted of first degree murder. Defendants appealed from the judgment of conviction and victim restitution order; in a prior opinion, we affirmed both defendants' convictions, but reversed the restitution order and returned the matter to the trial court for a new restitution hearing.

The present appeal is from the trial court's subsequent order awarding restitution to the murder victim's mother and children. We find no abuse of discretion, and thus we affirm.

## **FACTUAL AND PROCEDURAL BACKGROUND**

### **I.**

#### **Virginia's July 2003 Murder**

The following summary is drawn from our opinion in defendants' first appeal, *People v. Sepulveda et al.* (June 18, 2014) B237008, 2014 WL 2757631.)

Defendant Gustavo Alvarez (Alvarez) and Virginia Alvarez (Virginia) were married in 1996. Virginia had one son from a prior marriage (Michael), and Alvarez and Virginia had one son together (Isaiah). Alvarez had received a disability discharge from the U.S. Navy prior to his marriage, and during the marriage he worked for AT&T.

Alvarez and Virginia separated in June 2001 and subsequently filed for divorce. Relations between them became contentious when Virginia made claims to portions of Alvarez's salary and Navy disability pension. Toward the end of 2002, however, the couple reconciled and halted divorce proceedings.

In 2003, Alvarez contacted defendant Joseph Sepulveda (Sepulveda), whom he had known since childhood, and apparently solicited Sepulveda to murder Virginia. On July

5, 2003, Sepulveda asked his girlfriend, Jennifer Barreau, to drive him to see a friend. Barreau drove for a while, and then Sepulveda told her to stop in the parking lot of a Mexican restaurant. After 20 or 30 minutes, a green SUV drove into the lot and parked. Alvarez was driving the SUV, and Virginia was sitting on the passenger side. Sepulveda exited Barreau's car with a shotgun under his jacket and walked to the passenger side of the SUV. According to witnesses, Virginia had just gotten out of the SUV when, without saying a word, Sepulveda bent down on one knee, took aim, and shot Virginia in the head. Alvarez then returned to Barreau's car and frantically instructed her to drive away. Virginia died at the scene.

At the time of the murder in 2003, Virginia was 37 years old; Michael (Virginia's son from her first marriage) was ten years old; and Isaiah (Virginia's son with Alvarez) was six years old. Both children had been living with Virginia and Alvarez before Virginia's death. After her death, Michael lived with his maternal grandmother, Antonia Rivera, and Isaiah lived with Alvarez.<sup>1</sup>

Alvarez and Sepulveda were arrested for Virginia's murder in January 2010. After Alvarez's arrest, Isaiah lived with Rivera.

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<sup>1</sup> Alvarez benefitted financially from Virginia's death in various ways. He received \$8,600 from a class-action settlement that would have gone to Virginia. He received about \$40,000 as his share of Virginia's estate. He received survivor benefits from Virginia's county pension plan in the amount of \$1,175 a month; these payments stopped in April 2010 after Alvarez had received a total of \$92,272. He also received \$926 a month in survivor benefits from Virginia's life insurance policy; these payments stopped in 2009 after Alvarez had received more than \$77,000.

## II.

### **Trial and First Restitution Hearing**

In 2011, Alvarez and Sepulveda were tried and convicted of first degree murder, with financial gain and lying in wait special circumstances; as to Sepulveda only, the jury also made a true finding as to a firearm use enhancement (Pen. Code, §§ 187, 190.2, subd. (a)(1), (15), 12022.53).<sup>2</sup> Alvarez was sentenced to life in prison without possibility of parole, and Sepulveda was sentenced to life in prison without possibility of parole, plus 25 years to life.

Following trial, the prosecution sought an order of victim restitution pursuant to section 1202.4 for “every determined economic loss incurred as the result of the defendants’ criminal conduct.” The court held a restitution hearing and awarded restitution as follows:

*Child rearing expenses:* Virginia’s mother, Antonia Rivera, testified that she had had custody of Michael since July 5, 2003 (the date of the murder), and custody of Isaiah since January 10, 2010 (the date of Alvarez’s arrest). Michael had turned eighteen in December 2010, and Isaiah would turn eighteen in April 2015. Rivera testified that she spent approximately \$500 per month for Michael’s care, and a child support order provided by the prosecution established that Alvarez’s child support obligation for Isaiah during Alvarez’s and Virginia’s separation in 2001 had been \$1,071 per month. Based on Rivera’s testimony and the child support order, the court awarded Rivera restitution for child rearing expenses from the date she assumed custody of the boys until their eighteenth birthdays, calculated as follows:

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<sup>2</sup> All subsequent statutory references are to the Penal Code.

(\$500 per month x 89 months) (for Michael) + (\$1,071 per month x 63 months) (for Isaiah) = \$44,400 + \$67,673 = \$112,073.

*Future economic loss:* At the time of her death, Virginia was 37 years old, and her net salary was reported to be \$3,237 per month, or \$38,844 per year. The court assumed that Virginia would have continued to work until age 55, i.e., for an additional 18 years. It therefore awarded Virginia's estate  $\$38,844 \times 18 = \$699,196$ .

*Burial expenses, trial attendance, and legal fees:* The court awarded Rivera \$8,653 for burial expenses, \$3,195 for costs associated with attending the criminal trial, and \$15,000 for legal fees. The court awarded Virginia's aunt, Carmela Matanga, \$2,586 for burial expenses.

### III.

#### First Appeal

Both defendants appealed, challenging the convictions and the restitution awards. Specifically, with regard to the restitution awards, defendants challenged the awards of child rearing expenses to Virginia and future economic losses to the estate.<sup>3</sup> We affirmed the convictions, but reversed the restitution awards in part, as follows:

As to Virginia's mother, Antonia Rivera, we concluded that the trial court properly awarded restitution to compensate her for the expenses of raising Michael and Isaiah. We explained: "Rivera was a statutory victim under section 1202.4, and the costs she incurred were the direct result of the fact defendants

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<sup>3</sup> Defendants did not challenge the other components of the restitution award (i.e., burial expenses, trial attendance costs, and legal fees).

murdered her daughter. Defendants argue Rivera had no legal obligation to care for the boys. But they were her grandchildren and, even if Rivera acted both to provide for their needs as well as to satisfy her own peace of mind, the restitution award was proper.”

As to the award to the estate, we explained that subsequent to the restitution hearing, the Supreme Court held in *People v. Runyan* (2012) 54 Cal.4th 849, 853 (*Runyan*) “that for purposes of mandatory restitution provisions, the estate is not itself a ‘direct victim’ of a crime that caused the decedent’s death,” and thus was not entitled to restitution, on its own behalf. Under *Runyan*, therefore, we held that the almost \$700,000 awarded to Virginia’s estate had to be reversed. We agreed with the Attorney General, however, that a new restitution hearing was appropriate to allow the trial court to determine in the first instance whether Virginia’s children, who were the intended recipients of the award to the estate, should themselves be awarded restitution. We therefore remanded the case for a new hearing to determine how much, if any, restitution should be awarded to Virginia’s sons.

#### **IV.**

#### **Second Restitution Hearing**

At the second restitution hearing, the prosecution argued that Virginia would have supported Michael until he turned 18 in December 2010, and would have supported Isaiah until he turned 18 in April 2015. The prosecution also introduced evidence that Virginia’s salary at the time of her death in July 2003 was \$4,724 per month, and that if Virginia had continued to work for the County of Los Angeles as a “Senior Secretary III,” she would have

received annual step increases.<sup>4</sup> The prosecution thus urged the court to award restitution to Michael and Isaiah, calculated as 35 percent (per child) of Virginia's expected future income from the time of her death through the boys' eighteenth birthdays, plus interest of 10 percent from the date of Virginia's death until restitution was paid.

On January 12, 2015, the trial court reaffirmed the prior restitution awards to Rivera and to Virginia's aunt, Carmela Matanga. The court further ordered restitution to Michael, calculated as 25 percent of Virginia's expected gross income, from her death in August 2003 until Michael's eighteenth birthday in December 2010, plus interest, for a total of \$270,239; and to Isaiah, calculated as 25 percent of Virginia's expected gross income, from the time of Alvarez's arrest in January 2010 until Isaiah's eighteenth birthday in April 2015, plus interest, for a total of \$235,204.

Sepulveda and Alvarez timely appealed from the restitution order.

## CONTENTIONS

Defendants contend the trial court abused its discretion in awarding restitution to Michael and Isaiah. Specifically, they urge: (1) Michael and Isaiah suffered no actual economic loss from their mother's death because their grandmother and/or defendant Alvarez supported them, and thus an award of direct

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<sup>4</sup> At the first restitution hearing, Virginia's salary at the time of her death was calculated to have been as \$3,237 per month, or \$38,844 per year. At the second restitution hearing, Virginia's base salary *plus benefits* was calculated to have been \$4,724 per month (\$56,668 per year), and was projected to increase to \$6,537 per month (\$78,444 per year) by April 2015.

economic support to the boys was duplicative and a windfall; (2) there was no evidentiary or rational basis to believe that Virginia's personal consumption was limited to 50 percent of her income; and (3) the children's economic loss should be calculated as a percentage of Virginia's net salary after taxes, not as a percentage of her gross salary.

## DISCUSSION

### I.

#### Legal Principles

##### A. *Victim Restitution Under Section 1202.4*

"Section 1202.4 declares 'the intent of the Legislature that a victim of crime who incurs any economic loss as a result of the commission of a crime shall receive restitution directly from any defendant convicted of that crime.' (*Id.*, subd. (a)(1).)

Accordingly, with specified exceptions, 'in every case in which a victim has suffered economic loss as a result of the defendant's conduct, the court shall require that the defendant make restitution to the victim or victims . . . .' (*Id.*, subd. (f).) Absent extraordinary and compelling reasons (*ibid.*), restitution 'shall be of a dollar amount that is sufficient to fully reimburse the victim or victims for every determined economic loss incurred as the result of the defendant's criminal conduct' (*id.*, subd. (f)(3)), and must include, but is not limited to, . . . '[w]ages or profits lost due to injury incurred by the victim' (*id.*, subd. (f)(3)(D))." (*Runyan, supra*, 54 Cal.4th at p. 856.)

For purposes of section 1202.4, "'victim'" includes "[t]he immediate surviving family of the actual victim" and "[a] person who has sustained economic loss as the result of a crime and who . . . [a]t the time of the crime was the parent . . . [or] child . . . of the victim." (§ 1202.4, subds. (k)(1), (3)(A).)



*B. Burden of Proof and Standard of Review*

The evidentiary threshold for establishing a right to restitution is not rigorous: “At a victim restitution hearing, a prima facie case for restitution is made by the People based in part on a victim’s testimony on, or other claim or statement of, the amount of his or her economic loss. [Citations.] ‘Once the victim has [i.e., the People have] made a prima facie showing of his or her loss, the burden shifts to the defendant to demonstrate that the amount of the loss is other than that claimed by the victim. [Citations.]’ [Citation.]” (*People v. Millard* (2009) 175 Cal.App.4th 7, 26.)

“‘[T]he court’s discretion in setting the amount of restitution is broad, and it may use any rational method of fixing the amount of restitution as long as it is reasonably calculated to make the victim whole. [Citations.]’ [Citations.] ‘There is no requirement the restitution order be limited to the exact amount of the loss in which the defendant is actually found culpable, nor is there any requirement the order reflect the amount of damages that might be recoverable in a civil action. [Citation.]’ [Citation.]” (*People v. Millard, supra*, 175 Cal.App.4th at pp. 26–27.) Courts recognize that, in many cases, neither the victim nor the defendant will be able to calculate the victim’s losses with any degree of precision, but have noted that “the situation is one of the [defendant’s] own making, and as between the victim and the [defendant], the equities favor the victim.” (*People v. Prosser* (2007) 157 Cal.App.4th 682, 691.)

“ ‘ “The standard of review of a restitution order is abuse of discretion. ‘A victim’s restitution right is to be broadly and liberally construed.’ [Citation.] ‘ “When there is a factual and rational basis for the amount of restitution ordered by the trial

court, no abuse of discretion will be found by the reviewing court.”’ [Citations.]” [Citation.]’ [Citation.]” (*People v. Prosser*, *supra*, 157 Cal.App.4th at p. 686.)

## II.

### **Following a Parent’s Murder, A Minor Child Has the Right to Recover Loss of Economic Support as Restitution**

In *People v. Giordano* (2007) 42 Cal.4th 644, our Supreme Court considered the right of a homicide victim’s dependents to direct restitution under section 1202.4. Specifically, the court addressed two issues, both relevant to the present case: (1) whether section 1202.4 authorizes a court to order restitution to a homicide victim’s dependents for their future economic losses attributable to the victim’s death; and (2) how a trial court should measure the survivors’ economic losses. Because *People v. Giordano* is critical to our analysis, we discuss it in some detail.

The specific question before the court in *People v. Giordano* was whether the lower court abused its discretion in awarding restitution to the wife of a man killed by an intoxicated driver. Among other penalties, the court had awarded restitution to the decedent’s wife in the amount of \$167,711, which it calculated by multiplying the decedent’s average annual earnings over the three years prior to his death by five years. (*People v. Giordano*, *supra*, 42 Cal.4th 644 at p. 650.) The defendant appealed, urging that the trial court erred by awarding decedent’s wife the entirety of decedent’s income because such award exceeded her own economic loss. (*Id.* at p. 664.)

The court agreed that a surviving spouse’s economic loss is not simply the wages or income that the deceased spouse would have earned but for his or her death. It explained: “Penal Code

section 1202.4 does not provide that a surviving spouse, or other family member or heir, steps into the shoes of decedent in order to recover the decedent's losses. (Pen. Code, § 1202.4, subd. (a)(1) [ "[A] victim of crime *who incurs* any economic loss as a result of the commission of a crime shall receive restitution directly from any defendant convicted of that crime' (italics added)].") (*People v. Giordano, supra*, 42 Cal.4th at p. 664.) Instead, a surviving spouse may receive restitution only in the amount of his or her *own* economic loss, best described as the loss of economic support. (*Ibid.*) Thus, " '[w]here, as here, decedent was a husband and father, a significant element of damages is the loss of financial benefits he was contributing to his family by way of *support* at the time of his death and that *support* reasonably expected in the future.' " (*Id.* at p. 665.)

The Supreme Court concluded that the trial court's award of restitution was imprecise because it awarded decedent's wife decedent's entire salary for a period of five years. The court explained: "In the instant case, the trial court ordered restitution in the amount of \$167,711.65. It estimated Patricia Armstrong's loss by multiplying the deceased victim's approximate average annual earnings by five years. This method of calculation assumes that Patricia Armstrong was entitled to receive her husband's gross annual earnings, not just that portion of his earnings that went to her economic support. It also assumes that five years is the appropriate term for loss of support restitution. The trial court's only apparent basis for choosing a period of five years was [*People v.*] *Harvest* [(2000)] 84 Cal.App.4th [641], 653, a case in which a trial court ordered the defendant to pay \$23,160 to the former wife of a deceased victim for the loss of child support decedent had been ordered to pay. In these ways, the

trial court's method of calculation was not carefully designed to establish Patricia Armstrong's loss of support." (*People v. Giordano, supra*, 42 Cal.4th at pp. 665–666, fn. omitted.)

However, despite the trial court's conceded "methodological imprecision," the Supreme Court concluded that defendant had not demonstrated an abuse of discretion because he had not shown that the restitution award exceeded Patricia Armstrong's loss of support. (*People v. Giordano, supra*, 42 Cal.4th at p. 666.) The court explained that in a criminal case, an award of restitution is committed to the sound discretion of the trial court, and no abuse of that discretion occurs "as long as the determination of economic loss is *reasonable*, producing a nonarbitrary result. Factors relevant to that determination will necessarily depend on the particular circumstances before the court. Generally, the calculation of the loss of support may be informed by such factors as the earning history of the deceased spouse, the age of the survivor and decedent, and the degree to which the decedent's income provided support to the survivor's household." (*Id.* at p. 665, italics added.) In the present case, the defendant was correct that restitution should have been limited to the amount of decedent's wife's loss of support. However, because decedent had been in his 30's when he was killed, the trial court could have calculated loss of support using a longer period of time than five years. Thus, considering the restitution award *as a whole*, "defendant has not shown that a method designed to approximate Patricia Armstrong's loss of economic support, taking into consideration the deceased victim's anticipated years of contribution to his wife's support, would have resulted in an amount of restitution less than \$167,711.65." (*Id.*

at p. 666.) The court therefore found no abuse of discretion and affirmed the restitution award. (*Id.* at p. 667.)

### III.

#### **The Restitution Awards to Michael and Isaiah Were Within the Trial Court’s Discretion**

Defendants assert that the restitution awards to Michael and Isaiah were an abuse of the trial court’s discretion because those awards (1) were duplicative of the restitution award to Rivera, (2) assumed Virginia’s personal consumption was limited to 50 percent of her income, and (3) were based on Virginia’s gross (pre-tax) earnings. As we now discuss, defendants’ contentions fail because the restitution awards, considered together, have not been shown to exceed the children’s loss of economic support.

##### *A. No Abuse of Discretion in Awarding Restitution in Excess of Rivera’s Out-of-Pocket Expenses*

Defendants assert that because the children were supported economically by their grandmother after their mother’s death, “[Rivera] suffered economic loss. The children did not.” Defendants thus urge that the trial court erred when it found that the children personally incurred economic losses “above that already included in the restitution award to their grandmother.”

Defendants’ contention that their restitution obligation should be limited to Rivera’s out-of-pocket expenses reflects a fundamental misunderstanding of *Giordano*. As discussed above, under *Giordano*, a victim is entitled to receive as direct restitution “the amount of lost economic support incurred due to a criminal act.” (*People v. Giordano, supra*, 42 Cal.4th at p. 662.) Thus, the children’s right to support was not limited to the support that their *grandmother* was able to provide; instead, the

children were entitled to the support they would have received *from their mother*. (See *id.* at p. 665 [“ ‘a significant element of [victim’s] damages is the loss of financial benefits [decendent] was contributing to his family by way of *support* at the time of his death and that *support* reasonably expected in the future.’ ”].)

Under *Giordano*, therefore, the court was well within its discretion in ordering defendants to pay restitution to both Rivera *and* the children if it concluded—as its award indicates it did—that the children would have received greater financial support from Virginia than their grandmother was able to provide. Defendants make no showing that the court’s conclusion was without foundation, and thus an award of restitution to the children was not an abuse of discretion.

*B. No Abuse of Discretion in the Amount of the Restitution Award*

Having concluded that the trial court had discretion to award some restitution to Michael and Isaiah, we now consider whether the court abused its discretion in the amount of restitution it awarded. To summarize, the total restitution awards for support of Michael and Isaiah (taking into account the awards to Michael, Isaiah, and Rivera) were as follows:

*Michael*: \$44,400 (to Rivera) + \$270,239 (to Michael) = \$314,639

*Isaiah*: \$67,673 (to Rivera) + \$235,204 (to Isaiah) = \$302,877

*Total support*: \$314,639 (Michael) + \$302,877 (Isaiah) = \$617,516

Defendants attack the restitution award by attacking its component parts: They assert Virginia’s sons should not have been awarded 50 percent of her gross income because there were

“no . . . informed calculations of [Virginia’s] personal expenses,” and that, in any event, the restitution awards should have been keyed to Virginia’s net (post-tax) income, rather than her gross (pre-tax) income. In other words, defendants suggest we should reverse the restitution awards if any aspect of the trial court’s methodology was incorrect or imprecise. Under *People v. Giordano, supra*, 42 Cal.4th 644, however, a restitution award may be reversed only if the defendant demonstrates that the award, *considered as a whole*, exceeds the victims’ loss of support. Our inquiry, therefore, is necessarily of the *total* amount of the awards, rather than of the manner in which they were computed.

Defendants urge that the awards were excessive because, considered together, the amounts awarded to Michael, Isaiah, and Rivera were 83 percent of Virginia’s gross income (50 percent to the children, and 33 percent to Rivera). The assertion that Rivera was awarded 33 percent of Virginia’s monthly gross income is manifestly incorrect. Defense counsel asserted at the second restitution hearing that he had done an “independent[] calculat[ion]” to determine that the award to Rivera was 33 percent of Virginia’s gross income in 2003. This calculation presumably was derived by adding together the awards to Rivera for each boy’s support, divided by Virginia’s monthly gross income in 2003. ( $(\$500 + \$1,071) / \$4,724 = 33.2$  percent.) However, for the years 2003–2009, Rivera was awarded just \$500 per month (for Michael’s support only), which was approximately 10 percent of Virginia’s gross income. ( $\$500 / \$4,724 = 10.5$  percent.) Rivera was awarded \$1,571 per month for only one year (January 2010 [the date of Alvarez’s arrest] through December 2010 [Michael’s eighteenth birthday]), which represented approximately 25 percent of Virginia’s projected 2010 income of

\$6,154 per month. ( $\$1,571 / \$6,154 = 25.5$  percent.) And, for the years 2011–2015, Rivera was awarded \$1,071 per month (Isaiah’s support only), which was approximately 17 percent of Virginia’s projected gross income. ( $\$1,071 / \$6,154 = 17.1$  percent.)

Moreover, defendants’ attack on the amount of the restitution awards assumes, as the trial court did, that Michael’s recoverable losses began when his mother died, and ended on his eighteenth birthday (2003–2010); and that Isaiah’s recoverable losses began when his father was arrested, and ended on his eighteenth birthday (2010–2015). In fact, both boys’ recoverable losses began immediately upon their mother’s murder and arguably continued beyond their eighteenth birthdays.

*Both boys’ recoverable losses arguably began immediately upon their mother’s death:* The trial court assumed that because Isaiah lived with and was supported by his father between 2003 and 2010, Isaiah did not begin to suffer recoverable losses until his father was arrested in 2010. In fact, California law provides that every child has a right to support from *both* parents. (E.g., Fam. Code, §§ 3900 [“the father and mother of a minor child have an equal responsibility to support their child in the manner suitable to the child’s circumstances”], 4053, subd. (b) [“Both parents are mutually responsible for the support of their children”], 4053, subd. (f) [“Children should share in the standard of living of both parents”]; see also *Moss v. Superior Court* (1998) 17 Cal.4th 396, 405 [“The duty of a parent to support the parent’s child or children is a fundamental parental obligation.”].) Indeed, in the context of court-ordered child support, a parent’s support obligation “survives the death of the noncustodial parent and becomes a charge upon his or her estate.” (*In re Marriage of Gregory* (1991) 230 Cal.App.3d 112, 115.) Thus, although



between 2003 and 2010 Isaiah lived with and was supported by his father, he was entitled to restitution for the loss of the support his *mother* would have provided for him during those years.

*Both boys' recoverable losses arguably continued beyond their eighteenth birthdays:* The trial court assumed that the boys' recoverable losses terminated on their eighteenth birthdays because their mother would not have had a legal obligation to support them beyond that time. However, our Supreme Court has explained in the context of a wrongful death action that a surviving heir's recoverable losses may arise " 'from the deprivation of something which, from all the circumstances of the particular case, it could reasonably be expected such beneficiary would have received from the deceased had his life not been taken—even though the obligation resting on the deceased to bestow such benefit may have been but a *moral* obligation.' " (*Corder v. Corder* (2007) 41 Cal.4th 644, 661.) Thus, for example, in *Mize v. Atchison, T. & S. F. Ry. Co.* (1975) 46 Cal.App.3d 436, the court held that although decedent's legal support obligation to his sons, ages 17 and 14 years old, was only \$20 per month, a wrongful death award of \$50,000 was not excessive: "The decedent was legally obligated to pay \$20 per month for [his sons'] support, but often paid substantially more, both in cash and medical bills. He had made periodic gifts to the sons, including giving the older son an automobile. He planned to send both sons to college. . . . [¶] Under these circumstances we cannot say the trial judge was in error as a matter of law in determining that the amounts of the verdict did not exceed the pecuniary loss that the heirs will actually suffer." (*Id.* at pp. 453–454.)

Under these authorities, the trial court properly could have awarded restitution to both boys beginning in 2003 and continuing into their adulthood. Had the trial court done so, the restitution awards would have been substantially larger than those the court actually awarded. For example, had the court awarded \$1,500 per month for each boy's support (i.e., approximately one-third of Virginia's 2003 income for each child)<sup>5</sup> from the time of Virginia's death in 2003 until the boys' eighteenth birthdays, with an interest rate of 10 percent, reduced to present value as of the date of the 2015 restitution award, the total restitution awards would have been approximately \$301,379 (Michael) + \$384,917 (Isaiah), for a total of \$686,296.<sup>6</sup> Alternatively, had the court awarded the same monthly support at the same interest rate until the boys' 21st birthdays, the total restitution awards would have been approximately \$366,917 (Michael) + \$429,680 (Isaiah), for a total of \$796,597. And, had the court awarded the same monthly support at the same interest rate until the boys' 25th birthdays, the total restitution awards

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<sup>5</sup> In the absence of any contrary evidence, the assumption that Virginia evenly divided her income between herself and her two sons appears eminently reasonable.

<sup>6</sup> See Exhibit A, *post*. We note that these calculations do not precisely calculate the number of months between Virginia's murder and the boys' birthdays. However, the calculations are provided merely to illustrate the varieties of ways in which the restitution awards reasonably could have been calculated, rather than to revise or reform the restitution awards, and thus precise calculations are not essential to our analysis.

would have been approximately \$429,680 (Michael) + \$472,548 (Isaiah), for a total of \$902,228.<sup>7</sup>

In short, defendants make no showing that a method designed to approximate the boys' actual loss of support, taking into consideration their young ages when their mother was murdered and the likelihood that she would have supported them beyond their eighteenth birthdays, would have resulted in restitution awards less than those the trial court awarded. Accordingly, we find no abuse of discretion.

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<sup>7</sup> In light of the high costs of housing and post-secondary education, and the very weak job market for young adults, the assumption that Virginia would have continued to support her sons until they were at least 21 or 25 years old is not an unreasonable one.

**DISPOSITION**

The restitution order is affirmed.

**NOT TO BE PUBLISHED IN THE OFFICIAL  
REPORTS**

EDMON, P. J.

We concur:

ALDRICH, J.

GOSWAMI, J.\*

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**Exhibit A**

Year of Murder	2003	2003	2003	2003	2003	2003
Date of Restitution Order	2015	2015	2015	2015	2015	2015
Age At Murder	6	10	6	10	6	10
Monthly Support	1500	1500	1500	1500	1500	1500
Interest Rate	0.1	0.1	0.1	0.1	0.1	0.1
Age When Support Ends	18	18	21	21	25	25
Years of Support	12	8	15	11	19	15
Annual Support	18,000.00	18,000.00	18,000.00	18,000.00	18,000.00	18,000.00
Present Value of Support (2015)	384,917.11	301,379.11	429,680.44	366,917.11	472,548.65	429,680.44
TOTAL		686,296.22		796,597.55		902,229.09