SUMMARY
January 12, 2023

2023COA2

No. 20CA0646, *People v. Tennyson* — Criminal Law — Sentencing — Restitution — Procedural Deadlines — "Good Cause" to Extend Trial Court's Deadline; Criminal Procedure — Postconviction Remedies — Sentence Imposed in an Illegal Manner

People v. Weeks, 2021 CO 75, held that a district court loses "authority" to order a defendant to pay restitution when the restitution amount is determined past the statutory deadline in section 18-1.3-603(1)(b), C.R.S. 2022, and in the absence of an express good cause finding before expiration of that deadline. A division of this court concludes that a defendant's postconviction challenge to the restitution component of a sentence due to a district court's untimely determination of the restitution amount constitutes an illegal manner claim under Crim. P. 35(a).

COLORADO COURT OF APPEALS **2023COA2**

Court of Appeals No. 20CA0646
El Paso County District Court No. 07CR3317
Honorable David A. Gilbert, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Audrey Lee Tennyson,

Defendant-Appellant.

ORDERS AFFIRMED

Division V
Opinion by JUDGE JOHNSON
Welling and Graham*, JJ., concur

Announced January 12, 2023

Philip J. Weiser, Attorney General, Frank R. Lawson, Assistant Attorney General, Denver, Colorado, for Plaintiff-Appellee

Megan A. Ring, Colorado State Public Defender, Andrea R. Gammell, Deputy State Public Defender, Denver, Colorado, for Defendant-Appellant

*Sitting by assignment of the Chief Justice under provisions of Colo. Const. art. VI, § 5(3), and § 24-51-1105, C.R.S. 2022.

¶ 1 Defendant, Audrey Lee Tennyson (Tennyson), appeals the district court's orders denying his most recent postconviction motions in which he collaterally challenged his restitution order. Primarily, he contends that the restitution component of his sentence is illegal in light of *People v. Weeks*, 2021 CO 75. Tennyson also argues that the prosecution failed to present sufficient evidence to support its restitution request and that the imposition of restitution violated his constitutional rights to due process, to the effective assistance of counsel, and against double jeopardy.

¶ 2 In *Weeks*, because the defendant raised his objection to the restitution order on direct appeal, the opinion did not address a postconviction challenge to a district court's untimely determination of restitution. We conclude that, because the *amount* of restitution is not a part of a defendant's sentence, a challenge to a district court's failure to comply with the statutory procedure outlined in *Weeks* does not implicate the *legality* of a defendant's sentence under Crim. P. 35(a). Instead, in circumstances where the district court ordered at or before sentencing that the defendant was liable to pay restitution and then later determined the restitution amount

under section 18-1.3-603(1)(b), C.R.S. 2022, a defendant's postconviction challenge to the restitution amount is cognizable as a challenge to the *manner* in which the sentence was imposed under Rule 35(a). Therefore, Tennyson's postconviction challenge to the manner in which the district court imposed his restitution amount in 2008 is time barred. Because Tennyson's other claims are successive, untimely, or both, we affirm the district court's orders denying his postconviction motions.

I. Background

¶ 3 Tennyson pled guilty to two counts of aggravated robbery. On June 3, 2008, the district court sentenced him to concurrent twenty-six-year prison terms. At the sentencing hearing, the prosecutor "ask[ed]" the court to impose a lengthy prison sentence and "[a]lso for restitution." Although the prosecutor requested that restitution be "[r]eserve[d] for [ninety] days," the court also stated that "the [p]rosecution shall have [ninety] days to determine what restitution is due and owing" and that Tennyson would then "have [thirty] days to challenge if [he] believe[d] the figure [wa]s in error."[1]

[1] The version of the restitution statute in effect at the time Tennyson was sentenced required a prosecutor to submit

¶ 4 Subsequently, the prosecution submitted a proposed order for the imposition of $12,306.18 in restitution. The district court signed the order on October 17, 2008, more than ninety days after sentencing. The order afforded Tennyson ten days within which to file an objection to the restitution award. No objection was lodged.

¶ 5 The prosecution then submitted an amended proposed order for the imposition of $12,684.96 in restitution, which did not include any new or altered amounts but simply corrected an arithmetic error in the calculation of the total amount. The district court signed that order on November 5, 2008. The order afforded Tennyson ten days within which to file an objection to the amended restitution award. Again, no objection was filed.

¶ 6 Tennyson did not directly appeal his conviction or sentence. He did, however, file numerous unsuccessful postconviction motions and appeals. *See People v. Tennyson*, (Colo. App. No. 17CA1602, Nov. 14, 2019) (not published pursuant to C.A.R. 35(e));

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information to support the requested amount of restitution within ninety days of sentencing. § 18-1.3-603(2), C.R.S. 2008. This difference from the current statutory deadline, which is ninety-one days, has no bearing on the resolution of this appeal. *See* Ch. 208, sec. 112, § 18-1.3-603(2), 2012 Colo. Sess. Laws 867.

People v. Tennyson, (Colo. App. No. 14CA2520, Feb. 18, 2016) (not published pursuant to C.A.R. 35(f)); *People v. Tennyson*, (Colo. App. No. 12CA1927, Aug. 22, 2013) (not published pursuant to C.A.R. 35(f)).

¶ 7 In 2015, Tennyson sent a letter to the district court claiming that he had not been notified of the restitution order and objecting to the imposition of restitution. The court denied his objection as untimely.

¶ 8 In 2018, Tennyson filed the two Crim. P. 35(a) motions at issue in this appeal. The postconviction court denied the motions and, as relevant here, rejected Tennyson's challenges to the restitution order.[2]

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[2] These motions were filed, and the postconviction court's orders were entered, while the case was pending on appeal from an order denying a prior postconviction motion filed by Tennyson. A division of this court dismissed without prejudice Tennyson's appeal of these orders because the district court entered them without jurisdiction. Once the prior postconviction appeal was resolved, Tennyson filed the present appeal, and, after a limited remand to allow the court to re-enter the orders with jurisdiction, this appeal was recertified.

II. Standard of Review and Applicable Law

¶ 9 We review de novo the legality of a sentence and the summary denial of a Crim. P. 35 motion. *People v. Bassford*, 2014 COA 15, ¶ 20; *see also People v. Gardner*, 250 P.3d 1262, 1266 (Colo. App. 2010).

¶ 10 "[A]n illegal sentence is one that is inconsistent with the terms specified by statutes." *People v. Green*, 36 P.3d 125, 126 (Colo. App. 2001). Pursuant to Crim. P. 35(a), a court may correct an illegal sentence at any time. *People v. Rockwell*, 125 P.3d 410, 414 (Colo. 2005); *see also People v. Jenkins*, 2013 COA 76, ¶ 11.

¶ 11 "A sentence may be imposed in an illegal manner 'when the trial court ignores essential procedural rights or statutory considerations in forming the sentence.'" *People v. Bowerman*, 258 P.3d 314, 316 (Colo. App. 2010) (quoting 15 Robert J. Dieter & Nancy J. Lichtenstein, *Colorado Practice Series, Criminal Practice and Procedure* § 21.10 n.10 (2d ed. 2004)). The version of Crim. P. 35(a) in effect at the time Tennyson was sentenced provided that a court may correct a sentence imposed in an illegal manner within 120 days from, as relevant here, the imposition of the sentence. Crim. P. 35(a), (b) (2008).

¶ 12 Crim. P. 35(c) permits defendants to challenge their convictions and sentences on multiple other grounds. Crim. P. 35(c)(2) (2022). Among other things, a defendant may seek postconviction review of a sentence on the ground that it was imposed in violation of the constitution or laws of the United States or Colorado. Crim. P. 35(c)(2)(I).

¶ 13 A district court is required to deny a Crim. P. 35(c) claim that was, or could have been, raised and resolved in a prior appeal or postconviction proceeding on behalf of the same defendant. Crim. P. 35(c)(3)(VI), (VII).

¶ 14 And a Crim. P. 35(c) motion must be filed within three years of a defendant's conviction for an offense other than a class 1 felony. § 16-5-402(1), C.R.S. 2022; Crim. P. 35(c)(3)(I). "For purposes of [section] 16-5-402 and postconviction review, if there is no direct appeal, a conviction occurs when the trial court enters judgment and sentence is imposed." *People v. Collier*, 151 P.3d 668, 671 (Colo. App. 2006).

III. Illegal Manner Claim

¶ 15 Tennyson contends that, based on language in *Weeks*, the restitution component of his sentence is illegal and therefore

subject to correction at any time. He relies on the fact that our supreme court said that a district court must enter an order of restitution at the time of sentencing, and "[r]eserving the issue of restitution in its entirety until a later date isn't one of" the types of orders authorized by statute. *Weeks*, ¶¶ 11, 46.

¶ 16 Tennyson also relies on language from *Weeks* where the supreme court stated that a district court loses "authority" to order restitution more than ninety-one days after sentencing absent an express good cause finding to extend the deadline. *See id.* at ¶ 45 ("[T]he [*Weeks*] division correctly concluded that by the time the trial court ordered Weeks to pay restitution, it lacked authority to do so."); *id.* at ¶ 41 n.12 ("Even when the court loses authority to order a defendant to pay restitution, the victim's losses might be compensable under the Crime Victim Compensation Act.").

¶ 17 Given the supreme court's use of the word "authority" in *Weeks*, Tennyson's argument that his restitution order should be vacated appears to have merit at first blush. But because (1) the supreme court has held that the "liability" component of a restitution order is distinct and separate from the "amount" of restitution and (2) the overall opinion in *Weeks* sets forth the

procedural *manner* in which the restitution amount is determined, we conclude that Tennyson's challenge to his restitution amount is an untimely illegal manner claim under Rule 35(a).

A. Section 18-1.3-603 Contemplates Two Components to Restitution

¶ 18 The restitution statute, section 18-1.3-603(1), "requires that *all* judgments of conviction contain an order regarding restitution." *Weeks*, ¶ 3. Specifically, the judgment must include one of the four types of restitution orders enumerated in section 18-1.3-603(1). *Weeks*, ¶ 3.

¶ 19 The type of restitution order relevant here requires a judgment of conviction to include "[a]n order that the defendant is *obligated to pay* restitution, but that the *specific amount* of restitution shall be determined within the ninety-one days immediately following the order of conviction, unless good cause is shown for extending the time period by which the restitution amount shall be determined." § 18-1.3-603(1)(b) (emphasis added).[3]

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[3] As noted before, the version of the restitution statute in effect at the time Tennyson was sentenced required the determination of a restitution amount within ninety days after sentencing. § 18-1.3-603(1)(b), C.R.S. 2008. Again, this difference from the current

¶ 20 Our supreme court has interpreted section 18-1.3-603(1)(b) as "clearly distinguish[ing] an order *assigning liability* for restitution from a determination of the *amount of restitution* for which the defendant is liable." *Sanoff v. People*, 187 P.3d 576, 578 (Colo. 2008) (emphasis added).

¶ 21 *Sanoff* analyzed the General Assembly's 2002 reorganization of the restitution scheme and the addition of section 18-1.3-603(1)(b). 187 P.3d at 578. The supreme court concluded that the new restitution scheme clarified that "an order of conviction need only include a determination whether the defendant is obligated to pay restitution, without designation of the amount." *Id.* Thus, "when [a] district court order[s] [a] defendant liable to pay restitution, the restitution component of the defendant's sentence [i]s satisfied" and "[the] sentence, and therefore [the] judgment of conviction, bec[o]me[s] a final, appealable order upon issuance of the mittimus." *Id.* at 579; *see also Meza v. People*, 2018 CO 23, ¶¶ 13-15.

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statutory deadline, which is ninety-one days, has no bearing on the resolution of this appeal.

¶ 22 Thus, the supreme court stated that "the General Assembly has made clear its intent that the amount of the defendant's liability no longer be a required component of a final judgment of conviction." *Sanoff*, 187 P.3d at 578. This means that "a subsequent determination of the amount of restitution owed by a defendant, as distinguished from an order simply finding [the defendant] liable to pay restitution, has been severed from the meaning of the term 'sentence,' as contemplated by Crim. P. 32, and therefore from [the] judgment of conviction." *Id.* A subsequently issued order determining a specific amount of restitution is, therefore, a separate final, appealable order distinct from the judgment of conviction. *Id.*; *see also Meza*, ¶ 13.

¶ 23 *Weeks* did not overrule *Sanoff*'s distinction between the "liability" to pay restitution and the procedure to determine the "amount" of restitution. Indeed, *Weeks* reaffirmed *Sanoff*, noting that the defendant's "judgment of conviction becomes a final and appealable order with the inclusion of any of the four types of restitution orders." *Weeks*, ¶ 30 n.9; *see also Meza*, ¶ 14.

¶ 24 In resolving the issue before it, however, the *Sanoff* court did not address the issues related to section 18-1.3-603(1)(b)'s deadline

to determine and order the amount of restitution. *Weeks* resolved that issue.

B. The Procedures to Determine the Restitution Amount

¶ 25 Over the years, divisions of this court reached differing conclusions regarding who (the district court or the prosecutor) was responsible for determining an amount of restitution within the ninety-one-day statutory deadline. *See Weeks*, ¶¶ 1-2, 34, 38; *see also People v. Rice*, 2020 COA 143, ¶¶ 7-9, *overruled by Weeks*, ¶ 47 n.16; *People v. Roddy*, 2020 COA 72, ¶¶ 49-59 (Tow, J., specially concurring), *vacated*, 2021 CO 74; *People v. Knoeppchen*, 2019 COA 34, ¶ 19 n.4, *overruled in part by Weeks*, ¶ 47 n.16.

¶ 26 In settling this dispute, *Weeks* initially noted that the "*manner* in which restitution motions are generally submitted and resolved" did not comport with section 18-1.3-603(1)(b). *Weeks*, ¶¶ 1-2, 5 (emphasis added). It then set out detailed procedures governing when "the court orders the defendant to pay restitution but defers the specific amount." *Id.* at ¶ 44.

¶ 27 *Weeks* concluded that section 18-1.3-603(1)(b) requires the district court to determine an amount of restitution within ninety-one days after sentencing or within whatever extended time period

the court sets based on an express finding of good cause made before the deadline expires. *Weeks*, ¶¶ 4-5, 7, 9, 39-40. When proceeding under subsection (1)(b), the restitution statute also requires the prosecution to present information to the court to support its requested amount of restitution within ninety-one days following sentencing. § 18-1.3-603(2); *see also Weeks*, ¶¶ 6, 30-31. The court can extend this time period if it finds "that there are extenuating circumstances affecting the prosecuting attorney's ability to determine restitution." § 18-1.3-603(2).

¶ 28 The supreme court clarified that (1) before or at sentencing, the prosecution must move for an order that the defendant pay restitution and request that the amount of restitution be reserved, *see Weeks*, ¶¶ 30, 44; and (2) at sentencing, the district court must order the defendant to pay restitution but note that the amount of restitution will be determined within ninety-one days or within whatever extended time period the court establishes based on an express finding of good cause, *id.* at ¶¶ 4, 8-9, 30, 44, 46.

¶ 29 By applying these procedures to the manner in which the defendant's restitution amount in *Weeks* was determined, the supreme court concluded that, upon the expiration of section 18-

1.3-603(1)(b)'s deadline and in the absence of an express good cause finding made before the expiration of that statutory deadline, the district court "lacked authority" to "order[] [the defendant] to pay restitution." *Id.* at ¶ 45.

C. *Weeks*' Impact

¶ 30 We conclude that, despite the broad language used in *Weeks*, noncompliance with section 18-1.3-603(1)(b)'s deadline does not divest a district court of authority to order that a defendant is liable to pay restitution.

¶ 31 As noted in *Sanoff*, the order obligating a defendant to pay restitution is a component of the defendant's sentence. 187 P.3d at 578-79. Divisions of this court have concluded that a district court imposes an illegal sentence if it fails to consider restitution when imposing sentence. *See Bowerman*, 258 P.3d at 316 (the failure to answer whether a defendant should pay restitution results in an illegal sentence); *People v. Dunlap*, 222 P.3d 364, 368 (Colo. App. 2009) ("[I]f the trial court does not consider restitution when imposing the sentence, as required by statute, the sentence is illegal."). We read nothing in *Weeks* that disturbs this proposition. Indeed, *Weeks* stated that a district court must indicate on the

mittimus whether a defendant is liable to pay restitution at sentencing. *See Weeks*, ¶ 9. In fact, if a sentence is illegal because it does not contain the "consideration of restitution," as required by section 18-1.3-603(1), the district court must correct it. *See People v. White*, 179 P.3d 58, 61 (Colo. App. 2007) (a district court retains authority to correct an illegal sentence).

¶ 32 Instead, *Weeks*' interpretation of the deadline in section 18-1.3-603(1)(b) applies to the time within which a district court must enter the post-sentencing order regarding the *amount* of restitution. Indeed, *Weeks* directed that "[o]n remand, the division should return the case to the trial court with instructions to amend the mittimus to reflect that no restitution is required." *Weeks*, ¶¶ 9-10, 44. Noncompliance with the deadline in section 18-1.3-603(1)(b), therefore, could not affect the district court's duty to enter an order imposing restitution liability. *See Sanoff*, 187 P.3d at 578.

¶ 33 Thus, when *Weeks*, ¶ 41 n.12, stated that a district court "loses authority to order a defendant to pay restitution," the language referred to the district court's authority to fix an "amount" of restitution after the ninety-first day, absent compliance with the statutory deadlines and procedures set forth in *Weeks*. Because

the amount of restitution is not a component of a defendant's sentence, any procedural deficiency in determining the amount cannot implicate the legality of the restitution component of the defendant's sentence. *See Sanoff*, 187 P.3d at 578. As a result, when a defendant collaterally challenges the amount of restitution on grounds that the district court did not comply with the procedures outlined in section 18-1.3-603(1)(b) and *Weeks*, the issue is cognizable as an illegal manner claim under Crim. P. 35(a).

¶ 34 This conclusion is consistent with the holding in *Knoeppchen*, ¶ 27, in which, prior to the decision in *Weeks*, a division of this court determined that a district court's failure to make a timely finding of good cause to extend the restitution deadline was an illegal manner claim. Although *Weeks* overruled *Knoeppchen*, *see Weeks*, ¶ 47 n.16, the supreme court did so only to the extent it was inconsistent with *Weeks*. We read nothing in *Weeks* that would be contrary to *Knoeppchen*'s illegal manner analysis. *See Bowerman*, 258 P.3d at 317 (Because the "defendant contend[ed] that the trial court did not comply with one or more of the statutory and procedural considerations governing restitution hearings," "her argument challenge[d] the amount of restitution she should be

obligated to pay, which constitute[d] a claim that her sentence was imposed in an illegal manner."); *Dunlap*, 222 P.3d at 369 ("[B]ecause no time requirement limits jurisdiction under Crim. P. 35(a), 'courts have invoked [it] only to correct "fundamental" errors,'" and "[t]he trial court's failure to fix the amount of restitution does not, in our view, rise to the level of a fundamental error that results in a miscarriage of justice *to defendant*." (quoting *United States v. Katzin*, 824 F.2d 234, 241 (3d Cir. 1987))); *see also Collier*, 151 P.3d at 673 (the sentence was imposed in an illegal manner when the court failed to comply with statutory procedural requirements before imposing sentence); *People v. Wenzinger*, 155 P.3d 415, 418 (Colo. App. 2006) (Crim. P. 35(a)'s "not authorized by law" language does not include procedural infirmities); *Walker v. Arries*, 908 P.2d 1180, 1182 (Colo. App. 1995) (a sentence is imposed in an illegal manner if it is imposed in violation of statutory or other procedural requirements); *cf. People v. Baker*, 2019 CO 97M, ¶¶ 16-20 (because presentence confinement credit is not a component of a sentence, the amount of the credit can be challenged on direct appeal or as a Crim. P. 35(a) illegal manner claim).

D. Analysis

¶ 35 Tennyson contends that, like in *Weeks*, because the district court in his case reserved the issue of restitution in its entirety at sentencing and then imposed an order of restitution after the statutory deadline, his restitution order should be vacated. We disagree.

¶ 36 Initially, we are not persuaded by Tennyson's assertion that the prosecutor failed to request an order of restitution at or before sentencing. We are satisfied that the prosecutor's request "for restitution" at the sentencing hearing was sufficient to constitute a motion for an order that Tennyson pay restitution. We further reject Tennyson's claim that an extenuating circumstances finding was required to justify reserving the determination of an amount of restitution for the initial ninety-day period. *See Weeks*, ¶ 21 n.7.

¶ 37 Nor are we persuaded by Tennyson's argument that the district court impermissibly reserved the issue of restitution in its entirety. We acknowledge that an order obligating Tennyson to pay restitution was not included on Tennyson's mittimus, as required by *Weeks*. But the record here supports that at sentencing the district court orally granted the prosecution ninety days "to

determine what restitution is due and owing." We read this statement to mean that the court considered and ordered that Tennyson was liable to pay restitution and the court reserved only the determination of the restitution amount. Our reading of the record is supported by the district court also orally granting at sentencing thirty days after the prosecution presented the information for Tennyson to challenge "the figure" submitted. *See People v. Wiseman*, 2017 COA 49M, ¶ 52 (a court's oral pronouncement of sentence takes precedence over the mittimus); *see also* Crim. P. 36 ("Clerical mistakes in judgments, orders, or other parts of the record . . . may be corrected by the court at any time . . . ."); *People v. Glover*, 893 P.2d 1311, 1316 (Colo. 1995); *cf. Weeks*, ¶ 7 n.4 (When making findings of good cause or extenuating circumstances for extending the restitution deadlines, "talismanic incantations are [not] necessary" and, "[i]n both instances, substance controls over form.").

¶ 38 Thus, because the district court had entered an order — albeit not reflected on the mittimus — that assigned restitution liability to Tennyson, we now turn to the restitution amount itself. Based on our analysis above, a challenge to the timing of the court fixing the

amount of restitution is an illegal manner claim. And because Tennyson's postconviction challenge is to the order determining the amount of restitution, it is time barred. This is because he filed his challenge to the district court's noncompliance with the statutory procedures for determining an amount of restitution more than 120 days after sentencing. *See* Crim. P. 35(a), (b); *Bowerman*, 258 P.3d at 317. Accordingly, the postconviction court properly rejected this claim without a hearing.

IV. Other Claims

¶ 39 Tennyson also contends that the prosecution failed to present evidence to support its restitution request. This claim too, substantively, is a challenge to the legality of the manner in which his sentence was imposed. *See Bowerman*, 258 P.3d at 315-17 (a claim that the prosecution did not prove that the defendant proximately caused all of the losses for which restitution was awarded was substantively a Crim. P. 35(a) illegal manner claim).

¶ 40 Because Tennyson did not file this illegal manner claim within 120 days of the 2008 imposition of his sentence, we conclude that it also is untimely. *See* Crim. P. 35(a), (b).

¶ 41 Tennyson next asserts that the imposition of restitution violated certain of his constitutional rights. This claim is substantively a Crim. P. 35(c) challenge to the constitutionality of his sentence. *See* Crim. P. 35(c)(2)(I); *see also Knoeppchen*, ¶¶ 29-31 (a claim that the trial court's imposition of restitution violated the defendant's due process rights was substantively a Crim. P. 35(c) challenge to the constitutionality of the restitution component of the sentence).

¶ 42 Because he did not file this claim within three years of the 2008 imposition of his sentence and because this claim could have been raised in a prior postconviction proceeding, we conclude that it is untimely and successive. *See* § 16-5-402(1); Crim. P. 35(c)(3)(I), (VI), (VII).

¶ 43 Tennyson acknowledges that his constitutional claim is substantively one subject to Crim. P. 35(c) but asserts for the first time on appeal that he established justifiable excuse for its untimely filing because he had no notice that his rights were violated by the imposition of restitution because he did not receive the court's restitution order when the court entered it. *See* § 16-5-402(2)(d). He, however, does not address the successiveness bar,

and, nevertheless, we do not address justifiable excuse arguments asserted for the first time on appeal. *See People v. Goldman*, 923 P.2d 374, 375 (Colo. App. 1996) ("Allegations not raised in a Crim. P. 35(c) motion or during the hearing on that motion and thus not ruled on by the trial court are not properly before this court for review."); *see also People v. Clouse*, 74 P.3d 336, 340 (Colo. App. 2002) ("A defendant must allege in a Crim. P. 35 motion facts that, if true, would establish justifiable excuse or excusable neglect for a belated filing."); *People v. Shepherd*, 43 P.3d 693, 698 (Colo. App. 2001) ("Whether a defendant has demonstrated justifiable excuse or excusable neglect is a question of fact to be resolved by the trial court.").

¶ 44 Nevertheless, we note that the record demonstrates that Tennyson was aware of the restitution order as of, at the latest, 2015, and he provides no explanation for why he failed to raise the present Crim. P. 35(c) challenges to the order until 2018. *See People v. Wiedemer*, 852 P.2d 424, 441 (Colo. 1993) ("In making th[e] determination [regarding the applicability of the justifiable excuse or excusable neglect exception,] we believe it appropriate to

consider the circumstances existing throughout the entire period from the inception of the conviction in question . . . .").

¶ 45 Finally, any claims raised in Tennyson's motions that were not reasserted on appeal are deemed abandoned and we do not address them. *See People v. Brooks*, 250 P.3d 771, 772 (Colo. App. 2010).

V. Conclusion

¶ 46 The orders are affirmed.

JUDGE WELLING and JUDGE GRAHAM concur.