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FOTI, J., concurring in part and dissenting in part. I disagree with the majority's conclusion that the order to pay restitution must be set aside as an abuse of the trial court's discretion. Accordingly, I respectfully dissent from the portion of the majority opinion concerning the court's order of restitution.<sup>1</sup> I generally agree with the facts set forth in the majority opinion and will not repeat them in this opinion. I, however, disagree with the majority's conclusion that the requirement that the defendant, Silas S., pay \$2000 to the victims cannot properly be deemed restitution related to his offense and, therefore, that this court is "left to conclude that it serves either to deter or to punish the defendant for his wrongdoing." I conclude that the order does constitute fair restitution to the victims, furthering the defendant's rehabilitation and, therefore, is authorized by General Statutes § 53a-30. The order to pay restitution should not be set aside as an abuse of the court's discretion.

I begin by underscoring that "[t]he success of probation as a correctional tool is in large part tied to the flexibility within which it is permitted to operate. . . . To ensure this success, the trial judge has an exceptional degree of flexibility in determining whether to grant . . . probation and on what terms." (Citations omitted; internal quotation marks omitted.) *State v. Pieger*, 240 Conn. 639, 648, 692 A.2d 1273 (1997); see also *State v. Faraday*, 268 Conn. 174, 180, 842 A.2d 567 (2004). "The purpose of probation, as an alternative to incarceration, is to reform the defendant and to preserve public safety. . . . Furthermore, we have long held that probation is not ordered for the purpose of punishment for the wrong for which there has been a conviction, or for general wrongdoing. *Its aim is reformatory and not punitive.* It is to bring one who has fallen into evil ways under oversight and influences which may lead him to a better living. The end sought is the good of the individual wrongdoer, and not his punishment. . . . [P]robation is not punitive. Accordingly, because the legislature enumerated restitution as a possible condition of a criminal defendant's probation, it defies logic to conclude that restitution is punitive as a matter of law." (Citations omitted; emphasis in original; internal quotation marks omitted.) *State v. Fowlkes*, 283 Conn. 735, 743–44, 930 A.2d 644 (2007). Also, § 53a-30 (a) provides in relevant part: "When imposing sentence of probation or conditional discharge, the court may, as a condition of the sentence, order that the defendant . . . (4) make restitution of the fruits of the defendant's offense or make restitution, in an amount the defendant can afford to pay or provide in a suitable manner, for the loss or damage caused thereby and the court may fix the amount thereof and

the manner of performance . . . .” General Statutes § 53a-30 (a) (4).

I agree with the majority generally that “[c]onsistent with these principles, our Supreme Court also has emphasized that restitution properly is related to the damage or loss actually occasioned by the criminal activity that the defendant has committed.” I, however, believe that the majority is misguided in ascribing to the court’s ruling an overly narrow view of “a [trial] court’s authority to order restitution in an amount commensurate with ‘the fruits of the defendant’s offense’ or ‘for the loss or damage caused thereby . . . .’”

In *State v. Doriss*, 84 Conn. App. 542, 854 A.2d 48, cert. denied, 271 Conn. 922, 859 A.2d 581 (2004), this court had an opportunity to interpret the meaning of the term “fruits” as used in § 53a-30 (a) (4). The court first noted that the statute does not define “fruits,” and, therefore, in the absence of such statutory guidance, it could appropriately look to the meaning of the word as commonly expressed in the law and in dictionaries. *Id.*, 549, quoting *Vitti v. Allstate Ins. Co.*, 245 Conn. 169, 178, 713 A.2d 1269 (1998). The court then stated that “[f]ruit’ can be defined as ‘*the outcome, consequence or result of some action.*’ The Standard Encyclopedic Dictionary (1966). This common use of the term is often so employed to describe the *product or end product* of some action or omission. Significantly, Roget’s International Thesaurus (4th Ed. 1977) lists ‘fruit’ as a synonym for ‘product.’” (Emphasis added.) *State v. Doriss*, *supra*, 549. Under this definition, it is clear that the extensive damages sustained to an interior staircase and one or more interior walls were indeed the fruits of the defendant’s offense, as they undeniably were the outcome, consequence, result or end product of his criminal trespass.

Because I conclude that the damages to the house were the fruits of his criminal activity, I therefore conclude that the requirement that the defendant pay \$2000 to the victims was restitution related to his offense. As a result, the order to pay restitution was not an abuse of the court’s discretion.<sup>2</sup> Therefore, I dissent from that portion of the majority opinion concerning the court-ordered restitution. I would affirm the judgment of the trial court. In all other respects, I concur.

<sup>1</sup> I join the majority in declining to review as inadequately briefed any separate and distinct claim regarding the assertion that the state failed to prove that the defendant acted with the mental state necessary for the commission of the crime of criminal trespass in the second degree.

<sup>2</sup> Also, because I conclude that the requirement at issue is reasonably related to the defendant’s rehabilitation and, therefore, authorized by § 53a-30 (a) (4), I need not reach the issue of whether the order to pay restitution was authorized by § 53a-30 (a) (17).