

If you only read one case:

U.S. v. Monzel, ___ F.3d ___, 2011 WL 1466365 (D.C. Cir. 2011), April 19, 2011:

- Prox. Cause is presumed in § 2259 (& for all R cases);
- Loss probably cannot be imposed Jt/Sev with persons outside the case - but the defendant can only be held responsible for harms that meet the prox. Cause limitation anyway;
- 71-hour CVRA limit unrealistic , but not jurisdictional;
- Remands for court to re-compute \$5,000 “nominal” R (district court conceded was less than defendant caused);
- Restitution must be based on harm caused solely by the *defendant*.

On causation: Section 2259 requires proximate cause, not because of the catch-all phrase, but based on *“traditional principles of tort and criminal law and on §2259’s definition of ‘victim’ as an individual harmed ‘as a result’ of the defendant’s offense. . . It is a bedrock rule of both tort and criminal law that a defendant is only liable for harms he proximately caused . . . Thus we will presume that a restitution statute incorporates the traditional requirement of proximate cause unless there is good reason to think Congress intended the requirement not to apply. . . Proximate cause ensures ‘some direct relation between the injury asserted and the injurious conduct alleged. . . Without the limitation such a link provides, liability would attach to all sorts of injuries a defendant might indirectly cause, no matter how ‘remote’ or tenuous the causal connection. . . ‘once events are set in motion, there is, in terms of causation alone, no place to stop.’ It is conceivable that Congress could intend that those who violate laws against child sexual exploitation should pay restitution for such attenuated harms, but it seems unlikely it did so here.”* (citations omitted; pp 5-7)

The court rejects the reasoning of *In re Amy Unknown*, 2011 WL 988882 (5th Cir. March 22, 2011) on several grounds, and it refutes esoteric tort theories advanced by the victim and gov’t, such as indivisible injury and enterprise liability.

Federal Criminal Restitution

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