

Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

VERMONT SUPREME COURT
FILED IN CLERK'S OFFICE

ENTRY ORDER

SUPREME COURT DOCKET NO. 2009-156

MAY 21 2010

MAY TERM, 2010

State of Vermont	}	APPEALED FROM:
	}	
	}	
v.	}	District Court of Vermont,
	}	Unit No. 3, Franklin Circuit
	}	
Daniel E. Burnor	}	DOCKET NO. 1145-8-07 Frer

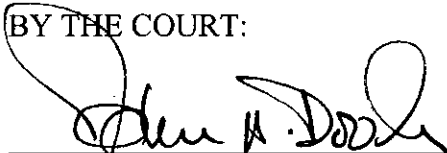
Trial Judge: Michael S. Kupersmith

In the above-entitled cause, the Clerk will enter:

Defendant appeals from the court's restitution order, imposed in connection with his burglary conviction. The State concedes that the trial court erred by failing to make any findings as to defendant's ability to pay; awarding restitution for \$20,000 worth of property damage; and denying defendant the opportunity to present evidence. The only point of dispute is whether the request for restitution was timely under the terms of defendant's plea agreement. Defendant fails to show that he raised this issue below, however, and we conclude that it was waived. See Bull v. Pinkham Eng'g Assocs., 170 Vt. 450, 459 (2000) ("Contentions not raised or fairly presented to the trial court are not preserved for appeal."); In re S.B.L., 150 Vt. 294, 297 (1988) (appellant bears burden of demonstrating how trial court erred warranting reversal, and Supreme Court will not comb record searching for error); see also V.R.A.P. 28(a)(4) (appellant's brief should explain what issues are, how they were preserved, and what appellant's contentions are on appeal, with citations to authorities, statutes, and parts of record relied upon). We reverse and remand for a continuation of the restitution hearing.

Reversed and remanded.

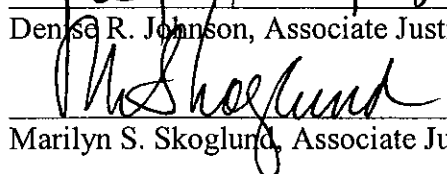
BY THE COURT:



John A. Dooley, Associate Justice



Denise R. Johnson, Associate Justice



Marilyn S. Skoglund, Associate Justice