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Can debt to society be paid by check?

**Those who pay restitution to victims' families face less jail time than those who can't.
It's legal, but is it fair?**

By CHRIS TISCH, Times Staff Writer
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LARGO - Patrick Hoang was drunk when he led police on a high-speed pursuit last November. His car eventually hit a tree, killing a passenger.

In January, Kenneth Kubeck also hit a tree after speeding through a curve in Dunedin, killing his best friend. Kubeck walked home and cracked open a beer.

Both Hoang and Kubeck were charged with felonies for causing the deaths of their passengers. Each faced long prison terms.

This week, both men got a break. Their prison sentences were reduced, partly because they offered substantial restitution to the victims' loved ones. Hoang got 8 1/2 years, Kubeck got two.

Hoang will pay \$50,000 into a trust fund for his victim's young son. Kubeck will pay \$900 a month for 15 years to support three young children.

State law allows judges to give lighter sentences when restitution is offered. If the family of the victim agrees with the lesser term, as was the case with Hoang and Kubeck, judges typically will depart from the recommended guidelines.

Is that fair to defendants who cannot afford restitution?

Two traffic death cases - William Thornton IV in Citrus County and Jean Clause Meus in Hardee County - have not ended so agreeably. They involve defendants who are poor and cannot afford to put up restitution.

Both defendants received the maximum sentence, even though they don't have prior criminal records.

As the judge who sentenced Kubeck said in court: "It seems fundamentally unfair that a significant departure basis is available to people who have money, but not to poor people."

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St. Petersburg police saw Hoang, 28, pick up Angela Almany in the early morning hours of Nov. 8, 2004. Officers approached and saw the pair in a sex act. Hoang sped away, nearly hitting an officer.

He led police across the Howard Frankland Bridge, then lost them in Tampa. Pinellas deputies saw him driving across the bridge into Pinellas County and followed him.

Minutes later, Hoang hit a tree on 116th Avenue N. Albany, 28, was killed instantly. Hoang's blood-alcohol count was about twice the level at which Florida law presumes impairment.

Hoang, of St. Petersburg, was charged with DUI-manslaughter, aggravated assault of a police officer, fleeing police, driving with a suspended license and lewd behavior.

He faced a minimum of more than 11 years in prison and a maximum of 50 years.

Hoang's defense lawyer contacted Albany's family and offered \$50,000 that could go into a trust fund for her young son. The family agreed to accept a lighter sentence of 8 1/2 years in prison.

"For people to come together and resolve the issues in this case is the positive," said Judge Dee Anna Farnell, who imposed the sentence. "There's no possibility of changing what happened that day, but the child is going to get \$50,000 and Mr. Hoang is going to prison for a while to think about what happened."

Hoang's previous record includes charges of retail theft and marijuana possession and 23 traffic citations for careless driving, speeding, driving on a sidewalk, driving without insurance, running a stop sign, having an expired tag and driving without a license.

Hoang's mother scraped up the \$50,000 for restitution, said his attorney, Lane Lastinger.

"Both sides ended up being as happy as you could be in a situation like that," Lastinger said. "This may be the only good that comes out of this case."

* * *

Kubeck, 33, of Clearwater, was jamming out to an AC/DC song as he sped around a curve of a Dunedin street on a foggy January night.

Kubeck, who had been drinking, lost control of his black Mercedes and hit a tree. Then he walked about 2 miles to his home and had a beer.

He left his best friend, Rodney Bone, dead in the car.

Police said Bone, 37, likely would have died even if Kubeck had called 911 right away.

Kubeck was charged with vehicular homicide and leaving the scene of a fatal crash. If convicted of the crimes, he faced a maximum of 30 years in prison and a minimum of about 10 years.

Kubeck offered to pay \$900 a month to Bone's girlfriend, who has three young children. None of Bone's family members wanted Kubeck in prison for more than two years and some didn't want him to serve any time.

Judge Linda Allan sentenced Kubeck to two years in prison and 15 years' probation. He must pay \$900 a month for the entire term of his probation - a total of \$162,000. The money can be used only for the