

Circuit Court for Wicomico County  
Case No.: C-22- 17-000025

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 237

September Term, 2017

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IN RE: C.S.

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Friedman,  
Beachley,  
Zarnoch, Robert A.,  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Zarnoch, J.

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Filed: August 2, 2018

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

C.S., appellant, entered a plea of involved in the delinquent act of robbery. The Circuit Court for Wicomico County, sitting as the juvenile court, found sufficient factual basis for the plea and entered a finding of involved.

At the disposition hearing, the juvenile court ordered that C.S. be committed to the custody of the Department of Juvenile Services for non-community based placement. The court also ordered that C.S. be jointly and severally liable, along with two co-defendants, for restitution in the amount of \$809.02. The amount of restitution included, *inter alia*, estimated costs to repair property damage to the robbery victim’s vehicle.<sup>1</sup> On appeal, C.S. contends that the restitution award constitutes an illegal sentence because there was no evidence that the victim’s vehicle was damaged as a direct result of the robbery. We agree and shall vacate the restitution order.<sup>2</sup>

A juvenile court may order restitution “as a direct sentence for a [ ] delinquent act, in addition to any other penalty prescribed by the underlying sentencing or remedial statute.” *In re: Cody H.*, 452 Md. 169, 183 (2017) (quoting *Pete v. State*, 384 Md. 47, 55 (2004)). The decision to require restitution, as well as the amount, are reviewed on appeal

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<sup>1</sup> It is not clear from the record before us what portion of the restitution amount represents estimated costs to repair the victim’s vehicle.

<sup>2</sup> The State asserts that, pursuant to Courts and Judicial Proceedings Article § 3-8A-07(c), the juvenile court no longer has jurisdiction over C.S., and therefore, the issue on appeal is moot. The State sets forth no direct authority for this proposition, however. In any event, we note that § 3-8A-07(c) provides that the juvenile court’s jurisdiction is terminated over a person who has reached 18 years of age when he is convicted of a crime “[u]nless otherwise ordered by the court[.]” (Emphasis added).

for abuse of discretion. *In re: A.B.*, 230 Md. App. 528, 531 (2016). The legal conclusions underlying a juvenile court restitution order are reviewed *de novo*. *Id.*

“[R]estitution may be compelled ordinarily only for the criminal conduct for which the defendant was convicted.” *State v. Stachowski*, 440 Md. 504, 513 (2014). Criminal Procedure Article § 11-603, which governs restitution, provides that “a court may enter a judgment of restitution that orders a defendant or child respondent to make restitution in addition to any other penalty for the commission of a crime or delinquent act, if: (1) as a direct result of the crime or delinquent act, property of the victim was stolen, damaged, destroyed, converted, or unlawfully obtained, or its value substantially decreased[.]” (Emphasis added).<sup>3</sup> Although § 11-603 does not define “direct result,” the Court of Appeals has stated that more than just a reasonable connection between the property damage and the crime or delinquent act is required. *See Pete*, 384 Md. at 61 (“[a]ny attempt by a court to craft a proximate causation, mere nexus or single charging document substitute would be clearly contrary to the plainly-worded intent of § 11-603.”) *See also Stachowski*, 440 Md. at 513 (in determining whether an injury is a “direct result” of the criminal conduct, “our cases are clear that restitution may be compelled only where the injury results from the actions that made the defendant’s conduct criminal.”)

According to the State’s proffer of evidence at the adjudication hearing, Edward McPherson, an employee of Domino’s Pizza, was robbed by three individuals, one of

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<sup>3</sup> A trial court “may not order restitution for crimes of which the defendant has not been convicted, unless the defendant has expressly agreed to pay such restitution as part of a valid plea agreement.” *Silver v. State*, 420 Md. 415, 436-37 (2011).

whom was holding a gun, as McPherson walked from his vehicle toward a residence to deliver pizza. At the disposition hearing, McPherson stated that he ran away from his assailants immediately after the robbery, leaving his vehicle at the scene of the robbery. When he returned to his vehicle, after the passage of an unspecified amount of time, it was “not in the same condition” and had a dent in the right front quarter panel. McPherson was “not sure” how the damage had occurred.

We conclude that, because there was no evidence that the damage to McPherson’s vehicle occurred during and because of the robbery, or was otherwise a “direct result” of the robbery, the court exceeded its statutory authority in ordering appellant to pay restitution for repairs to the vehicle. *See Pete*, 384 Md. at 66 (restitution order regarding damaged police cruiser was inappropriate for conviction of second degree assault because the damage was not a direct result of the assault). *Compare with Goff v. State*, 387 Md. 327, 344 (2005) (holding that damage to bathroom shower, which occurred “during and because of” an assault that took place in the shower, was a direct result of the assault, and noting that “no time lapsed between the criminal act and the resulting damage,” and no “intervening agent or occurrence caused the damage.”)

“[W]hen a sentencing court exceeds the limits of its statutory authority in ordering restitution[,] ... we will vacate the order as an illegal sentence.” *Wiredu v. State*, 222 Md. App. 212, 228 (2015) (citations omitted). Accordingly, we vacate the restitution order, and

remand to the juvenile court for further proceedings to determine the appropriate amount of restitution.<sup>4</sup>

**ORDER OF RESTITUTION IN THE AMOUNT OF \$809.02 IS VACATED. JUDGMENT OTHERWISE AFFIRMED. CASE REMANDED TO THE CIRCUIT COURT FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY WICOMICO COUNTY.**

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<sup>4</sup> The State asserts that the circuit court’s order of restitution should not be reversed “particularly given that [appellant] did not lodge any objection to the payment of restitution.” As the Court of Appeals has stated, however, “[w]hen the trial court has allegedly imposed a sentence not permitted by law, the issue should ordinarily be reviewed on direct appeal even if no objection was made in the trial court.” *Goff v. State*, 387 Md. 327, 340 (2005) (quoting *Walczak v. State*, 302 Md. 422, 437 (1985)). *Accord*, *Stachowski v. State*, 213 Md. App. 1, 27 (2013) (court lacked statutory authority to order restitution to victims of unrelated criminal activity, thus, restitution order constituted illegal sentence that is reviewable on appeal despite defendant’s failure to object.)