

Circuit Court for Baltimore City
Case No.: 323157003J

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1459

September Term, 2024

IN RE: T.W.

Wells, C.J.,
Friedman,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 13, 2025

*This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

The Circuit Court for Baltimore City, sitting as a juvenile court, found that Appellant T.W. was involved in felony and misdemeanor unauthorized use of a vehicle. The court later placed her on probation for six months and ordered her to pay \$6,948.12 in restitution.¹ On appeal, T.W. contends the court abused its discretion in setting the amount of restitution. The State agrees. So do we.

A juvenile court, generally, may order a juvenile to make restitution if, “as a direct result of the . . . delinquent act, the victim suffered . . . direct out-of-pocket loss[.]” Md. Code Ann., Crim. Proc. (“CP”) § 11-603(a)(2)(ii). That said, the juvenile court’s primary duty is “to promote the rehabilitation of the [child].” *In re Earl F.*, 208 Md. App. 269, 276 (2012) (cleaned up). And “the rehabilitative purpose [of restitution] is frustrated” when the restitution amount exceeds a juvenile’s ability to pay. *In re Don Mc.*, 344 Md. 194, 203 (1996) (cleaned up). Thus, the court need not issue a judgment of restitution if the juvenile “does not have the ability to pay the judgment” or “there are extenuating circumstances that make a judgment of restitution inappropriate.” CP § 11-605(a). Both “the decision to require restitution, as well as the amount, are reviewed for abuse of discretion.” *In re A.B.*, 230 Md. App. 528, 531 (2016).

Like in adult cases, a juvenile court must conduct a “reasoned inquiry” into a juvenile’s ability to pay at a restitution hearing. *Don Mc.*, 344 Md. at 203 (cleaned up). In

¹ While this appeal was pending, the juvenile court issued an order closing the underlying case, terminating probation “unsuccessfully,” ordering that a judgment of restitution in the full amount of \$6,948.12 be entered against T.W. in favor of the victim and be referred to the Central Collections Unit, and terminating jurisdiction. The State does not contend that this order renders moot T.W.’s appeal.

reviewing a court’s determination that a juvenile or their parent has the ability to pay, this Court considers the amount of restitution ordered, the time available for repayment, the individual’s present and future potential for employment, familial support, number of dependent children, and other factors that may be relevant to the determination. *See In re A.B.*, 230 Md. App. at 533, 563–37; *In re Delric H.*, 150 Md. App. 234, 251–54 (2003); *In re Levon A.*, 124 Md. App. 103, 143–47 (1998), *rev’d in part on other grounds*, 361 Md. 626 (2000).

For example, in *Levon A.*, we held that a juvenile court abused its discretion by ordering the child’s mother, “Ms. A.,” to pay \$2,133.90 in restitution. *Levon A.*, 124 Md. App. at 146–47. Ms. A. was a single mother of three school-aged children, who were in foster care at the time of the restitution hearing. *Id.* at 114. She did not receive any support from her children’s father. *Id.* Nor did she receive any social security benefits or housing subsidy. *Id.* Although Ms. A. was employed, she earned just \$788 per month. *Id.* After paying her monthly bills, including rent, utilities, food, phone, and work-related transportation, Ms. A. had no additional money to pay restitution unless she “sacrificed the well being of her children.” *Id.* at 114–15, 147. Given her evidenced inability to pay the ordered amount, we held that the restitution order was an abuse of discretion.² *Id.* at 145–47. So too here.

² The Supreme Court of Maryland later held that there was no basis for the restitution judgment to begin with because there was no “causal connection between Levon’s delinquent behavior and the damage.” *Levon A.*, 361 Md. at 641.

At the time of the restitution hearing, T.W. was 18 years old and had not yet finished high school. She had two children, a one-year-old and a two-month-old, who were in her custody and for whom she was solely responsible for providing care. She received no child support. Nor did she receive any familial support, financial or otherwise, having been previously declared a CINA³ herself.

T.W. had applied for several jobs but, at the time of the hearing, was still unemployed. Her only source of income was the \$400 she received every month for going to school. After paying for food, living, and baby-related expenses, she had no money remaining at the end of the month. And although T.W. anticipated that the Department of Social Services would be providing her with housing and some income when she transitioned from her foster home, she did not know the amount.

Yet, despite T.W.’s circumstances, the juvenile court ordered restitution based on her future ability to pay. In the court’s view, “at some point in her life, sooner than later, she can acquire [a] job[.]” To be sure, future ability to pay is a valid consideration in determining if restitution should be ordered, and, if so, how much the judgment should be. *See, e.g., In re A.B.*, 230 Md. App. at 536; *Delric H.*, 150 Md. App. at 253. But the court’s analysis is flawed.

³ A “Child in Need of Assistance” is “a child who requires court intervention because (1) [t]he child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and (2) [t]he child’s parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child’s needs.” Md. Code Ann., Cts. & Jud. Proc. (“CJP”) § 3-801(f).

T.W. does not have the rest of her life to acquire a job and satisfy the restitution judgment. She has less than three years, *see* CJP § 3-8A-07(a), a much shorter window than, for example, the children in *In re A.B.*, 230 Md. App. at 536 (five-and-a-half years) and *Delric H.*, 150 Md. App. at 253 (nine years). What’s more, both of those children had family who provided for their needs and expenses. *A.B.*, 230 Md. App. at 533–34; *Delric H.*, 150 Md. App. at 251. T.W., in contrast, must provide for herself and her two infant children without familial assistance. Like Ms. A., T.W. could not comply with the restitution order unless she “sacrificed the well being of her children.” *Levon A.*, 124 Md. App. at 147. The juvenile court’s failure to consider the realities of T.W.’s circumstances was an abuse of discretion. Accordingly, we reverse the order of restitution and remand for further proceedings consistent with this opinion.

**JUDGMENT OF THE CIRCUIT
COURT FOR BALTIMORE CITY
REVERSED. CASE REMANDED
FOR FURTHER PROCEEDINGS
CONSISTENT WITH THIS
OPINION. COSTS TO BE PAID BY
THE MAYOR AND CITY COUNCIL
OF BALTIMORE.**